

## Document 1

**From:** [Dalal Aboulhosn](#)  
**To:** [Mccarthy, Gina](#); [Kopocis, Ken](#); [Bond, Brian](#); [Ragland, Micah](#); [Barranco, Angela](#); [McConville, Drew](#); [Southerland, Elizabeth](#)  
**Subject:** CEO Letter on Steam Electric ELG Rule  
**Date:** Friday, June 19, 2015 12:31:02 PM  
**Attachments:** [ELG CEOs letter FINAL \(6.17.2015.pdf\)](#)

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Please find a letter from a group of the environmental community's CEOs asking for a strong ELG rule. Also, below is the press release (with links) to our new report talking about the health benefits of a strong rule.

Thanks and have a nice weekend,  
Dalal

*Dalal Anne Aboulhosn  
Senior Washington Representative  
Sierra Club  
202.675.6278*

### New Report: EPA must protect drinking water and downstream communities from power plant pollution

Wed, 06/17/2015 - 09:18

Health benefits of a strong rule worth hundreds of millions of dollars each year  
Wednesday, June 17, 2015

**Contact:**

Brian Willis, (202) 675-2386, [Brian.Willis@sierraclub.org](mailto:Brian.Willis@sierraclub.org)

[Click Here for a Copy of the Report](#)

Washington, D.C. – Power plants discharge more than 5.5 billion pounds of pollutants into U.S. waterways every year, contributing to the contamination of more than 23,000 miles of rivers and 185 water bodies whose fish are too toxic to eat.

As the U.S. Environmental Protection Agency (EPA) weighs the nation's first limits on toxic water pollution from power plants -- due in September -- a new report details the damage caused by the wastewater and the need for strong regulations to protect public health.

The report, "Selling Our Health Down the River," presents evidence that EPA has been under-estimating the public health benefits of controlling metals including arsenic and hexavalent chromium (which can increase the risk of cancer), as well as lead and mercury (which can cause brain damage) released by power plants into rivers, streams, and lakes.

While EPA has estimated that controlling these pollutants would provide \$14 million to \$20 million worth of health benefits per year, a more accurate assessment would likely far exceed \$300 million annually, according to the report, which was written by Physicians for Social Responsibility, the Environmental Integrity Project, Sierra Club, Earthjustice and Clean Water Action.

"EPA has a historic opportunity to update Clean Water Act protections and to make sure our nation's drinking water systems and their consumers aren't bearing the burden and footing the bill

to clean up coal plant water pollution," said Clean Water Action Water Programs Director Jennifer Peters. "EPA must put the prevention of contamination and public health protection before the interests of an industry that has had a free pass to poison our nation's waters for decades."

The current wastewater pollution guidelines for power plants have not been updated since 1982 and do not restrict discharges of heavy metals, despite the fact that the electric power industry is responsible for the majority of toxic water pollution from industrial sources.

"For more than 30 years, power plants have dumped toxic chemicals into our waters, even though there are laws on the books that require the industry to clean up its act," said Thom Cmar, Earthjustice's lead attorney on this issue. "This report shows the EPA the enormous benefits of finally righting this wrong, and why cleaning-up the nation's biggest water polluters is a no-brainer."

The proposed rule, formally the Effluent Limitations Guidelines for the Steam Electric industry, or "ELG," contains a menu of options that the agency is considering. The authors of the report urge the EPA to choose the strongest possible protections against water toxics from power plants, which are outlined in the agency's proposal as options 4 and 5. Both would eliminate almost all heavy metal water pollution from the industry.

"Strong clean water laws are about a child's right to grow up healthy and holding polluters accountable for decades of toxic dumping," said Casey Roberts, an author of the report and staff attorney at the Sierra Club. "As things stand today, thousands of lives are unnecessarily put at risk due to outdated policies and irresponsible polluters. In September, EPA has a chance to change that for the better."

"Coal-burning power plants are pouring poisonous heavy metals into our waterways. These toxic substances – like mercury, lead and arsenic – are putting at risk the health of our children and the developing brains of our babies", said Barbara Gottlieb, Director of Environment and Health at Physicians for Social Responsibility. "We need robust, effective protection from the EPA to get this dangerous pollution under control."

The benefits to public health, downstream communities, and the economy justify the largest possible reduction of toxic discharges. Unfortunately EPA's analysis only estimated the economic value of three specific human health benefits. EPA disregarded the positive impact of, among other things, safer drinking water and fish that are safer to eat in waterways downstream from power plants. When the full range of benefits is taken into account, the strongest possible regulations are justified.

"Americans will be much healthier because of this rule, and that has a huge economic benefit," said Abel Russ, the lead author of the report and Attorney at Environmental Integrity Project. "If you add it all up, looking at the human health benefits alone, the rule will generate hundreds of millions of dollars in economic value each year."

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## Document 2

**From:** [Casey Roberts](#)  
**To:** [Mccarthy, Gina](#); [Ragland, Micah](#); [Southerland, Elizabeth](#); [Kopocis, Ken](#); [Bond, Brian](#)  
**Cc:** [Dalal Aboulhossn](#)  
**Subject:** Letter concerning public health benefits of Steam EGU Effluent Limitations Guidelines  
**Date:** Wednesday, June 17, 2015 5:04:04 PM  
**Attachments:** [Selling Our Health Down the River FINAL.pdf](#)  
[Letter on ELG Public Health Benefits \(6.17.2015\).docx](#)

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Dear Administrator,

Please see the attached letter from the leaders of five environmental and public health organizations regarding the Effluent Limitation Guidelines for Steam EGUs. The letter discusses a report, released today, which is also enclosed. We would welcome any questions from or discussion with your office regarding this important public health issue.

Sincerely,  
Casey Roberts

Casey Roberts  
Staff Attorney  
Sierra Club Environmental Law Program  
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## Document 3

**From:** [Devine, Jon](#)  
**To:** [Scott Schang](#); [Jessica Sarnowski](#)  
**Cc:** [dduncan@hunton.com](#); [craig.r.schmauder.civ@mail.mil](#); [Kopocis, Ken](#)  
**Subject:** RE: Planning for June 8th Event  
**Date:** Thursday, June 04, 2015 10:56:16 AM

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I can talk prior to 11 and after 4:30 tomorrow. I'm also happy just to coordinate over email.

**JON DEVINE**  
*Senior Attorney*

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**From:** Scott Schang [<mailto:schang@eli.org>]  
**Sent:** Thursday, June 04, 2015 10:43 AM  
**To:** Jessica Sarnowski  
**Cc:** [dduncan@hunton.com](#); [craig.r.schmauder.civ@mail.mil](#); [Kopocis.Ken@epa.gov](#); Devine, Jon  
**Subject:** Re: Planning for June 8th Event

Hi All,

We are looking forward to a great discussion on Monday.

Please let Jessica and me know if you are free for a brief organizational call tomorrow, Friday:

10-12

2-3

After 4

All times Eastern.

Thanks,

Scott

Sent from my iPad

On Jun 3, 2015, at 11:12 AM, Jessica Sarnowski <[sarnowski@eli.org](mailto:sarnowski@eli.org)> wrote:

Hello Panelists,

This email is to request confirmation of your participation in the June 8<sup>th</sup> ELI Seminar on the WOTUS rule and to discuss the best way to prepare for this seminar.

Scott Schang, the acting President of ELI, will moderate your panel. I normally conduct a 30 minute planning call with panelists prior to the seminar. However, I am aware that you are all very busy, especially following the release of the rule.

Please email me by COB today with an update on your availability to participate in the seminar. Please also include your preference regarding whether we should: 1) schedule a planning call or 2) prepare via email.

ELI truly appreciates your participation,

Jessica Sarnowski

Jessica Werber Sarnowski  
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Environmental Law Institute  
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p: 202.939.3841 | f: 202.939.3868  
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***If you're not an ELI member, you should be!***

Go [HERE](#) to learn more and/or sign up!



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## Document 4

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** Do you have 5 minutes to talk?  
**Date:** Friday, April 24, 2015 1:21:08 PM

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Ken-

I was hoping to catch up with you for a very quick question. I am free today between 2-3, between 4:30-5:15, and after 6. Thank you very much.

Jon

**JON DEVINE**  
***Senior Attorney***

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## Document 5

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** RE: Your call  
**Date:** Monday, March 30, 2015 8:01:46 AM

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Thank you for getting back to me. 9:30 could work. I'm out of the office, but reachable on my cell at (b) (6)

(b)

Jon

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From: Kopocis, Ken [Kopocis.Ken@epa.gov]  
Sent: Monday, March 30, 2015 7:53 AM  
To: Devine, Jon  
Subject: Your call

I have a message that you called on Friday.  
Is there a good time to talk today? Maybe sometime between 9:30 and 10:30?

Ken Kopocis  
Office of Water  
U.S. EPA  
(202) 564-5700

## Document 6

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** Automatic reply: Your call  
**Date:** Monday, March 30, 2015 7:53:43 AM

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Thank you for your email. I am on vacation from (b) (6) I  
will not be checking email regularly. If your message is urgent, please call my cellphone at (b) (6)



## Document 7

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Cc:** [Bond, Brian](#); [Fritz, Matthew](#); [Kopocis, Ken](#); [Peck, Gregory](#); [abarranco@ceq.eop.gov](mailto:abarranco@ceq.eop.gov)  
**Subject:** Fwd: Blog posted recapping Clean Water Rule hearing  
**Date:** Saturday, February 07, 2015 11:28:00 AM

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FYI.

[http://switchboard.nrdc.org/blogs/jdevine/big\\_polluter\\_agenda\\_comes\\_for\\_.html](http://switchboard.nrdc.org/blogs/jdevine/big_polluter_agenda_comes_for_.html)

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## Document 8

**From:** [Slesinger, Scott](#)  
**To:** [Nicole.Teutschel@cantwell.senate.gov](#); [jordan\\_wells@peters.senate.gov](#); [Zipkin, Adam \(Booker\)](#); [david\\_weinberg@peters.senate.gov](#); [jordan\\_wells@peters.senate.gov](#)  
**Cc:** [Unruh Cohen, Ana \(Markey\)](#); [Riley, Rebecca](#); [Siu, Brian](#); [Forbes, Sasha](#); [Devine, Jon](#)  
**Subject:** Ballast hearing tomorrow. some information we hope will be useful.  
**Date:** Tuesday, February 03, 2015 11:33:05 AM  
**Attachments:** [Commerce Letter re Ballast Waters.docx](#)

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I know the Commerce Committee is not organized yet, but I wanted to bring this information to your attention for the hearing on ballast water tomorrow. We strongly support the Boxer alternative from last year, that dealt with fishing and other small boats. Below is some information on the ballast water problem that we hope your bosses can speak to going forward. Please contact us for any additional information.

-

Attached is a letter we wrote last year on the ballast water bill. I think the most important rollback is the provision that would change the standard for stronger regulations. Under the Clean Water Act, every industry (**listed below from EPA's website**) is required to meet a technology standard (called effluent guidelines), which is based not on the best existing technology but one that is affordable for the industry. EPA is required to review the standards every 5 years. This bill would do at least 4 inappropriate things:

1. Preempt state laws
2. Move the authority to an Agency that doesn't deal with water quality
3. Set a single national standard that ignores the obvious differences between fresh and salt water environments.
4. Lastly, and most disturbing is that the bill uses a standard is so vague, that the Agency would **never be able to strengthen the standard**. It is *impossible* to create a record to show a judge, even with deference to an agency that a technology "would result in a scientifically demonstrable and substantial reduction in the risk of the introduction or establishment of aquatic nuisance species" What evidence could EPA bring forward to meet this test? This isn't like seeing how much pollution kills fish or people. This test requires unknown species to be stopped by some technology that aren't stopped now. This test is intended to fail so the industry would never have to meet anything but the existing standard in perpetuity.

Note the list of industries below that must meet the technology standard; shipping is demanding a special standard that virtually exempts them from any new responsibilities. There is no reason for this special treatment.

<http://water.epa.gov/scitech/wastetech/guide/industry.cfm>

Industry Category	40 CFR Part	First Promulgated	Limitations and Standards

<a href="#">Airport Deicing</a>	<a href="#">449</a>	2012	BAT, NSPS
<a href="#">Aluminum Forming</a>	<a href="#">467</a>	1983	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Asbestos Manufacturing</a>	<a href="#">427</a>	1974	BPT, BCT, BAT, NSPS
<a href="#">Battery Manufacturing</a>	<a href="#">461</a>	1984	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Canned and Preserved Fruits and Vegetable Processing</a>	<a href="#">407</a>	1974	BPT, BCT, NSPS, PSES, PSNS
<a href="#">Canned and Preserved Seafood (Seafood Processing)</a>	<a href="#">408</a>	1974	BPT, BCT, NSPS
<a href="#">Carbon Black Manufacturing</a>	<a href="#">458</a>	1978	BPT, BAT, NSPS, PSNS
<a href="#">Cement Manufacturing</a>	<a href="#">411</a>	1974	BPT, BCT, BAT, NSPS
<a href="#">Centralized Waste Treatment</a>	<a href="#">437</a>	2000	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Coal Mining</a>	<a href="#">434</a>	1985	BPT, BAT, NSPS
<a href="#">Coil Coating</a>	<a href="#">465</a>	1983	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Concentrated Animal Feeding Operations (CAFO)</a>	<a href="#">412</a>	1974	BPT, BCT, BAT, NSPS, PSNS
<a href="#">Concentrated Aquatic Animal Production (Aquaculture)</a>	<a href="#">451</a>	2004	BPT, BAT, BCT, NSPS
<a href="#">Construction and Development</a>	<a href="#">450</a>	2009	BCT, BCT, BAT, NSPS
<a href="#">Copper Forming</a>	<a href="#">468</a>	1983	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Dairy Products Processing</a>	<a href="#">405</a>	1974	BPT, BCT, NSPS

<a href="#">Electrical and Electronic Components</a>	<a href="#">469</a>	1983	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Electroplating</a>	<a href="#">413</a>	1981	PSES
<a href="#">Explosives Manufacturing</a>	<a href="#">457</a>	1976	BPT
<a href="#">Ferroalloy Manufacturing</a>	<a href="#">424</a>	1974	BPT, BCT, BAT, NSPS
<a href="#">Fertilizer Manufacturing</a>	<a href="#">418</a>	1974	BPT, BCT, BAT, NSPS, PSNS
<a href="#">Glass Manufacturing</a>	<a href="#">426</a>	1974	BPT, BCT, BAT, NSPS, PSNS
<a href="#">Grain Mills Manufacturing</a>	<a href="#">406</a>	1974	BPT, BCT, NSPS, PSNS
<a href="#">Gum and Wood Chemicals</a>	<a href="#">454</a>	1976	BPT
<a href="#">Hospitals</a>	<a href="#">460</a>	1976	BPT
<a href="#">Ink Formulating</a>	<a href="#">447</a>	1975	BPT, BAT, NSPS, PSNS
<a href="#">Inorganic Chemicals</a>	<a href="#">415</a>	1982	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Iron and Steel Manufacturing</a>	<a href="#">420</a>	1982	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Landfills</a>	<a href="#">445</a>	2000	BPT, BCT, BAT, NSPS
<a href="#">Leather Tanning and Finishing</a>	<a href="#">425</a>	1982	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Meat and Poultry Products</a>	<a href="#">432</a>	1974	BPT, BCT, BAT, NSPS,
<a href="#">Metal Finishing</a>	<a href="#">433</a>	1983	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Metal Molding and Casting (Foundries)</a>	<a href="#">464</a>	1985	BPT, BAT, NSPS, PSES, PSNS

<a href="#">Metal Products and Machinery</a>	<a href="#">438</a>	2003	BPT, BCT, NSPS
<a href="#">Mineral Mining and Processing</a>	<a href="#">436</a>	1975	BPT, NSPS
<a href="#">Nonferrous Metals Forming and Metal Powders</a>	<a href="#">471</a>	1985	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Nonferrous Metals Manufacturing</a>	<a href="#">421</a>	1984	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Oil and Gas Extraction</a>	<a href="#">435</a>	1979	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Ore Mining and Dressing (Hard Rock Mining)</a>	<a href="#">440</a>	1982	BPT, BAT, NSPS, BMP
<a href="#">Organic Chemicals, Plastics and Synthetic Fibers (OCPSE)</a>	<a href="#">414</a>	1987	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Paint Formulating</a>	<a href="#">446</a>	1975	BPT, BAT, NSPS, PSNS
<a href="#">Paving and Roofing Materials (Tars and Asphalt)</a>	<a href="#">443</a>	1975	BPT, BAT, NSPS, PSNS
<a href="#">Pesticide Chemicals Manufacturing, Formulating and Packaging</a>	<a href="#">455</a>	1978	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Petroleum Refining</a>	<a href="#">419</a>	1982	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Pharmaceutical Manufacturing</a>	<a href="#">439</a>	1983	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Phosphate Manufacturing</a>	<a href="#">422</a>	1974	BPT, BCT, BAT, NSPS
<a href="#">Photographic</a>	<a href="#">459</a>	1976	BPT
<a href="#">Plastic Molding and Forming</a>	<a href="#">463</a>	1984	BPT, BCT, NSPS
<a href="#">Porcelain Enameling</a>	<a href="#">466</a>	1982	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Pulp, Paper and Paperboard</a>	<a href="#">430</a>	1998	BPT, BCT, BAT,

			NSPS, PSES, PSNS, BMP
<a href="#">Rubber Manufacturing</a>	<a href="#">428</a>	1974	BPT, BAT, NSPS, PSNS
<a href="#">Soaps and Detergents Manufacturing</a>	<a href="#">417</a>	1974	BPT, BAT, NSPS, PSNS
<a href="#">Steam Electric Power Generating</a>	<a href="#">423</a>	1982	BPT, BAT, NSPS, PSES, PSNS
<a href="#">Sugar Processing</a>	<a href="#">409</a>	1974	BPT, BCT, BAT, NSPS
<a href="#">Textile Mills</a>	<a href="#">410</a>	1982	BPT, BAT, NSPS
<a href="#">Timber Products Processing</a>	<a href="#">429</a>	1981	BPT, BAT, NSPS
<a href="#">Transportation Equipment Cleaning</a>	<a href="#">442</a>	2000	BPT, BCT, BAT, NSPS, PSES, PSNS
<a href="#">Waste Combustors</a>	<a href="#">444</a>	2000	BPT, BCT, BAT, NSPS, PSES, PSNS

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I blog at <http://switchboard.nrdc.org/blogs/sslesinger/>

## Document 10

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** Anticipated questions  
**Date:** Friday, January 30, 2015 5:02:32 PM  
**Attachments:** [Questions we expect EPA and Corps will be asked.docx](#)

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Ken—

Thank you for all of your continued work on the Clean Water Rule. As I am sure you are preparing for the upcoming hearing opportunity to discuss the rule, I attempted to think of questions the Administrator or Assistant Secretary Darcy might get from members that have expressed opposition to the rule. They are attached.

Best,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report (1.26.2015)  
**Date:** Wednesday, January 28, 2015 1:01:05 PM

---

FYI

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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**From:** Watkins, Glenn [<mailto:gwatkins@nrdc.org>]  
**Sent:** Monday, January 26, 2015 2:33 PM  
**To:** Clean Water Working Group  
**Subject:** [clean-water-wg] Clean Water Protection Rule Media Report (1.26.2015)

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

January 26, 2015

-

## News Coverage

[South Dakota Senator Wants WOTUS Withdrawn](#) – 1/26/2015, WNAX Radio - Next month, Congress will be taking a look at a proposed rule by EPA that many lawmakers oppose. The February 4 joint Committee hearing will focus on the agency's attempt to clarify the Clean Water Act.

[What does the proposed 'waters of the United States' rule mean to your business?](#) – 1/26/2015, Inside Counsel – On March 25, 2014, the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency (EPA) released a proposed rule to clarify the reach of the Clean Water Act (CWA) by defining the jurisdictional term "waters of the United States" (WOUS).

-

## Opinion

[Clean water under attack in the US Congress](#) – 1/23/2015, The Rock River Times – From Lake Michigan to local streams, clean water is vital to our health, recreation, and wildlife. To protect clean water, U.S. EPA is currently considering a rule to



restore Clean Water Act protections to thousands of waterways here in Illinois and across the country.

[William D. Turner: New Congress may block protections to streams, wetlands](#) – 1/23/2015, The Charleston Gazette – Not since the passage of the Clean Water Act in 1972 has the pollution of America's lakes, streams and rivers been a more pressing issue, and the new leadership in the U.S. Senate makes the threat even immediate. Across America, vitally important feeder streams and wetlands are at risk of being polluted without adequate controls on discharges into those waters.

## **Blogs/Social Media**

[New Public Polling Research Shows Americans Want Clean Water Safeguards](#) – 1/22/2015, NRDC Blog – Though he's only been at it for a few days, new Senate Majority Leader Mitch McConnell hasn't taken long to launch the Republican-controlled Congress on [a course to attack many of our basic health and environmental safeguards](#). At the same time, new public opinion research shows that a strong majority of Americans in five key states support existing protections and many, including many Republicans, favor tougher environmental enforcement.

Results for #protectcleanwater

Top / [All](#)

- 1) **Clean Water Action @CleanH2OMA**  
Pipeline near water supply is "a dealbreaker" [lowellsun.com/news/ci\\_273898](#)....  
[#ProtectCleanWater](#) [#StopTGPNE](#)
- 2) **NRDC @NRDC**  
Stormwater runoff represents one of the largest sources of water pollution in the United States. [on.nrdc.org/1LaVfLC](#) [#ProtectCleanWater](#)
- 3) **American Rivers @americanrivers**  
Old pipelines are putting our clean water at risk. We need better standards to [#protectcleanwater](#) [ow.ly/HSjUW](#)
- 4) **Environment America @EnvAm**  
Tell Congress to [#protectcleanwater](#) by making statement [#4cleanwater](#) before Feb. 4 hearing. [bit.ly/1CJVDdU](#)
- 5) **Todd Ambs @ToddAmbs**  
Great message about the need [#protectcleanwater](#) - Congress may block protections to streams, wetlands [shar.es/1bzViH](#) via [@sharethis](#)

Non-responsive to FOIA request

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

**From:** Kopocis, Ken [mailto:Kopocis.Ken@epa.gov]  
**Sent:** Friday, January 09, 2015 3:19 PM  
**To:** Navis Bermudez  
**Cc:** Jan Goldman-Carter; Jon Devine  
**Subject:** RE: follow-up on meeting

Navis,

Next week is really crammed – I am in Atlanta two days. The only time would be Friday between 11 and 12.

I could do an hour sometime between 11 and 1 on the 22<sup>nd</sup>.

Of course Jan and Jon could join us.

Ken

---

**From:** Navis Bermudez [mailto:nbermudez@selcdc.org]  
**Sent:** Friday, January 09, 2015 2:30 PM  
**To:** Kopocis, Ken  
**Subject:** follow-up on meeting

Hi Ken,

Thanks for agreeing to meet with us to chat about tributaries. In addition to my colleague Bill Sapp from our Atlanta office, Jan Goldman-Carter and Jon Devine would like to join us. We have availability most of next week, as well as January 21<sup>st</sup> and 22<sup>nd</sup> and we are open the week of the 26<sup>th</sup>. Are there any days and times within those parameters that would work for you? Thanks again.

Best, Navis

Navis A. Bermudez  
Deputy Legislative Director  
Southern Environmental Law Center



## Document 13

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#); [Nagle, Deborah](#); [Sawyers, Andrew](#)  
**Cc:** [Hammer, Rebecca](#); [Levine, Larry](#)  
**Subject:** FW: Draft email to EPA HQ re: Region 2/New Jersey  
**Date:** Thursday, December 18, 2014 2:53:04 PM  
**Attachments:** [EPA Region 2 Letter 12-2-14.pdf](#)

---

Dear Ken, Deborah, and Andrew:

Earlier this fall, NRDC and several local partner organizations met with Region 2 Clean Water Division staff to discuss New Jersey's revision of its statewide municipal separate storm sewer system (MS4) permits. While we found substantial common ground with Region 2 about the legal requirements that the revised permits will have to meet, we were disappointed that Regional staff seemed hesitant to take a strong, pro-active role in New Jersey's permit revision process. As a result, during the meeting and in the attached follow-up letter, we urged the Region to exercise its authority – and fulfill its obligation – to ensure the legal sufficiency of the state's draft permits. We also provided several examples of comment letters and objections to draft permits issued by other Regions around the country.

We'd like to ask that the Office of Water also weigh in with Region 2 to confirm that it is both appropriate and necessary for EPA Regional staff to oversee delegated states' NPDES permitting, so that they can ensure that the requirements of the Clean Water Act are being properly applied.

Thank you, and please let us know if you would like to discuss the matter further. My colleagues Becky Hammer and Larry Levine, copied here, are the leads on this work for NRDC. Please do not hesitate to contact them directly.

Best,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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## Document 14

**From:** [Devine, Jon](#)  
**To:** [abarranco@ceq.eop.gov](mailto:abarranco@ceq.eop.gov); [Bond, Brian](#); [Kopocis, Ken](#)  
**Subject:** FW: Clean Water Act and the omnibus  
**Date:** Monday, December 15, 2014 3:26:22 PM

---

FYI re: Farm Bureau's apparent interpretation of the provision in the omnibus, and my responses to a reporter about it.

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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---

**From:** Devine, Jon  
**Sent:** Monday, December 15, 2014 3:03 PM  
**To:** 'Philip Brasher'  
**Subject:** RE: Clean Water Act and the omnibus

My only point in mentioning Mr. LaMalfa is that he previously indicated that his prior similar provision was not meant to change the law. Ultimately, what matters here is whether this specific language prohibits the implementation of the Clean Water Act as it is written, including the recapture clause, and I don't think it does.

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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---

**From:** Philip Brasher [<mailto:philip@agri-pulse.com>]  
**Sent:** Monday, December 15, 2014 2:46 PM  
**To:** Devine, Jon  
**Subject:** Re: Clean Water Act and the omnibus

Thanks for your reply.

Both the Farm Bureau and LaMalfa's staff would disagree with this from Lowey: "If you needed a permit before, you will need to get a permit under this provision; if you didn't need one before, you won't under this provision."

They contend that the Corps has been requiring permits for practices that would affect a water of the U.S., per the example LaMalfa cited last year, or for changing agricultural practices. Lamella's staff cites a case where a farmer was prevented from planting wheat on ground that had been fallow for several years. They argue that the Corps will no longer be able to do this.

On Dec 15, 2014, at 2:25 PM, Devine, Jon <[jdevine@nrdc.org](mailto:jdevine@nrdc.org)> wrote:

If you needed a permit before, you will need to get a permit under this provision; if you didn't need one before, you won't under this provision.

Philip Brasher

Senior Editor  
Agri-Pulse Communications  
703-304-8483  
@PhilipBraher  
[Agri-Pulse.com](http://Agri-Pulse.com)

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## Document 15

**From:** [Dalal Aboulhosn](#)  
**To:** [Feldt, Lisa](#)  
**Cc:** [Garbow, Avi](#); [Kopocis, Ken](#); [Mitchell, Stacey](#); [Veney, Carla](#); [Behl, Betsy](#); [Southerland, Elizabeth](#)  
**Subject:** Re: Mountaintop Removal Next Steps Letter  
**Date:** Friday, November 21, 2014 2:50:21 PM

---

I was just sending to you all and I also sent to Angela Barranco at CEQ who has meetings with the affected citizens in the last few months.

I am happy to put this in the docket as well if helpful.

*Dalal Anne Aboulhosn*  
*Senior Washington Representative*  
*Sierra Club*  
*202.675.6278*  
[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)

On Fri, Nov 21, 2014 at 2:47 PM, Feldt, Lisa <[Feldt.Lisa@epa.gov](mailto:Feldt.Lisa@epa.gov)> wrote:

Thanks Dalal, Is this being sent officially in as well or is this it.

Lisa Feldt

Associate Deputy Administrator

Office of the Administrator

Environmental Protection Agency

[202-564-4711](tel:202-564-4711)

[feldt.lisa@epa.gov](mailto:feldt.lisa@epa.gov)

**From:** Dalal Aboulhosn [mailto:[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)]

**Sent:** Friday, November 21, 2014 2:45 PM

**To:** Feldt, Lisa; Garbow, Avi; Kopocis, Ken; Mitchell, Stacey; Veney, Carla

**Cc:** Behl, Betsy; Southerland, Elizabeth

**Subject:** Mountaintop Removal Next Steps Letter

Thank you for your time a few weeks back in meeting with us on mountaintop removal. I wanted to share this letter with you that lays out the asks we had of EPA going forward for the next two years.

Please share this letter with any other staff I may not have copied here. As always we are happy to come in again to talk specifics about this.

Thank you and have a good weekend,

Dalal

*Dalal Anne Aboulhosn*

*Senior Washington Representative*

*Sierra Club*

[202.675.6278](tel:202.675.6278)

[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)



## Document 16

**From:** [Dalal Aboulhosn](#)  
**To:** [Feldt, Lisa](#); [Garbow, Avi](#); [Kopocis, Ken](#); [Mitchell, Stacey](#); [Veney, Carla](#)  
**Cc:** [Behl, Betsy](#); [Southerland, Elizabeth](#)  
**Subject:** Mountaintop Removal Next Steps Letter  
**Date:** Friday, November 21, 2014 2:45:11 PM  
**Attachments:** [EPA letter 11-21-2014 FINAL.pdf](#)

---

Thank you for your time a few weeks back in meeting with us on mountaintop removal. I wanted to share this letter with you that lays out the asks we had of EPA going forward for the next two years.

Please share this letter with any other staff I may not have copied here. As always we are happy to come in again to talk specifics about this.

Thank you and have a good weekend,  
Dalal

*Dalal Anne Aboulhosn*  
*Senior Washington Representative*  
*Sierra Club*  
*202.675.6278*  
[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report (11/18/2014)  
**Date:** Tuesday, November 18, 2014 4:12:57 PM

---

FYI

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

November 18, 2014

-

## News Coverage

-

[A battle over wetlands and small streams](#) – Michigan Radio, 11/18/2014 – Wetlands have all kinds of benefits for people and wildlife. But wetlands have also gotten in the way of farming and building. So, we've drained them over the years.

['Waters of the US' rule to help communities, municipalities receive safe drinking water](#) – WaterWorld, 11/18/2014 – According to the Natural Resources Defense Council (NRDC), the new proposed Clean Water Protection Rule (CWPR), or 'Waters of the U.S.' rule, will help ensure that Americans have [safe drinking water](#) by closing a critical gap in the nation's pollution laws.

[New Proposed Rule Fights for Safe Drinking Water for All](#) – Environmental Protection, 11/18/2015 – On Nov. 14, the public comment period was closed on a new proposed rule that the [Natural Resources Defense Council \(NRDC\)](#) says “will help ensure that Americans have safe drinking water by closing a critical gap in the nation's pollution laws.”

[Science, Not Politics, Should Guide Clean Water Act Clarification](#) – Go Local PDX, 11/18/2014 – Fresh water is our most precious natural resource, as essential to life as the air we breathe. Fortunately, most of us in the United States don't have to give it much thought, thanks, in large part, to the federal [Clean Water Act](#), passed in 1972.

[Controversy Stirs Over Proposed Changes to Clean Water Act](#) – Central NC News,

11/17/2014 – Jurisdiction over certain waterways in the state could be changing.

[AHC Opposes Expansion of Clean Water Act](#) – The Horse, 11/18/2014 – Concerned about what it calls "vague and unclear terms and definitions," in proposed changes, the American Horse Council (AHC) submitted comments opposing the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers' proposed rule to redefine "waters of the U.S." under the Clean Water Act (CWA).

[Pennsylvania Farm Bureau concerned about proposed rule change to Clean Water Act](#) – Pennsylvania Business Daily, 11/17/2014 – The Pennsylvania Farm Bureau (PFB) expressed concern on Thursday over a proposed rule change to the Clean Water Act that would give federal oversight to regulating water on farmland across the country.

[EPA seeks to clarify Clean Water Act's scope](#) – Poughkeepsie Journal, 11/17/2014 – The Environmental Protection Agency intends to get its controversial "waters of the United States" proposal "over the finish line," despite a backlash from agricultural groups and congressional Republicans, EPA Administrator Gina McCarthy said Monday.

## Opinion

[The Clean Water Act: Final thoughts as EPA public comment period ends](#) – Minnesota Daily, 11/18/2014 – The Clean Water Act has brought progress to Minnesota lakes and rivers, but in order to continue on the path to success, we must protect all the waterways in Minnesota. A loophole in the Clean Water Act has left just more than half of Minnesota's rivers and streams, including many that feed into the Mississippi River, vulnerable to pollution.

[Letter: Close loophole in Clean Water Act](#) – SCTimes, 11/17/2014 – As the nation marks the 42nd anniversary of the Clean Water Act, a new report from Environment Minnesota, "Waterways Restored," highlights the success the law has meant for Powderhorn Lake.

## Blogs/Social Media

[Business boiled over EPA's water rule](#) – The Hill blog, 11/18/2014 – Business groups are joining with local government representatives and conservative lawmakers to criticize the Environmental Protection Agency's water jurisdiction proposal, imploring the Obama administration to rescind it.

[Poultry Producers Say 'Waters of US' Rule Would Cause Problems](#) – The Poultry Site, 11/18/2014 – The US Poultry & Egg Association, National Chicken Council and National Turkey Federation filed comments with the US Environmental Protection Agency (EPA) regarding the proposed rule developed by the EPA and the US Army Corps of Engineers' (Corps) to define "Waters of the United States" under the Clean Water Act (CWA).

[NRDC: Clean Water Proposal Will Help Families, Homeowners Get Safe Drinking Water](#) – NRDC Press Release, 11/18/2014 - A proposed new clean water rule will help ensure Americans have safe drinking water by closing a critical gap in the country's

pollution laws, the Natural Resources Defense Council said.

**Coalition Collects More Than 800,000 Comments Supporting Clean Water Rule** – American Rivers Press Release, 11/17/2014 – Following the end of the comment period last week, a coalition of environmental groups including the League of Conservation Voters, Natural Resources Defense Council, Clean Water Action, Environment America, Southern Environmental Law Center, Sierra Club and American Rivers announced today that they've collected more than 800,000 comments in support of the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers' Clean Water Rule.

Results for #protectcleanwater

Top / [All](#)

- 1) **Michael Kelly** [@MichaelEdKelly](#)  
Brilliant. "The Exaggerator" from [@NRDC](#) and [@NRDCWater](#) [#ProtectCleanWater](#) - [bit.ly/1wTVjFo](#)
- 2) **Clean Water Action** [@cleanh2oaction](#)  
This is just fun. Thanks to [@NRDC](#) for bringing us "The Exaggerator" - [bit.ly/1wTVjFo](#) [#ProtectCleanWater](#)
- 3) **Jill Bathke** [@JillBathke](#)  
At [@EnvironmentMN](#)'s [#WOTUS](#) Green Ideas and Ham Event- learning ways to advocate for a strong rule post comment period. [#protectcleanwater](#)
- 4) **Lacey McCormick** [@riffleshell](#)  
INCREDIBLE - Images of feedlots taken by satellite, by Mishka Henner [ow.ly/EqusO](#) [#protectcleanwater](#)
- 5) **National Wildlife** [@NWF](#)  
Black bears need us to [#ProtectCleanWater](#)! Learn more & take action: [bit.ly/1wfHtwB](#)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report (11/17/2014)  
**Date:** Monday, November 17, 2014 6:18:22 PM

---

FYI

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

November 17, 2014

## News Coverage

[EPA chief surprised by resistance to water rule](#) – The Hill, 11/17/2014 – Environmental Protection Agency (EPA) head Gina McCarthy said she was surprised by the way that opponents attacked her agency's attempt to redefine its jurisdiction over waterways.

[Plans for Clean Water Discussed](#) – Alton Daily News, 11/17/2014 – Plans to prop up the federal Clean Water Act by clarifying its jurisdiction get the approval of an environmental advocate. The head of Healing Our Waters Great Lakes Coalition, Todd Ambrose, says people have to have confidence they can drink what comes out of the tap.

[Outdoor News: Pennsylvania sportsmen urge protection of wetlands](#) – Timesleader, 11/15/2014 – Pennsylvania's hunters and anglers want the Environmental Protection Agency (EPA) to take action to better protect America's streams and wetlands.

[Pennsylvania Farm Bureau concerned about proposed rule change to Clean Water Act](#) – Pennsylvania Business Daily, 11/17/2014 – The Pennsylvania Farm Bureau (PFB) expressed concern on Thursday over a proposed rule change to the Clean Water Act that would give federal oversight to regulating water on farmland across the country.

[Pence Calls for EPA to Drop Water Proposal](#) – Inside Indiana Business, 11/17/2014 – Governor Mike Pence and Lieutenant Governor Sue Ellspermann today sent a letter to both the Environmental Protection Agency (EPA) and the U.S. Army Corps of

Engineers urging them to withdraw the proposed rule that redefines "waters of the United States" protected under the Clean Water Act.

[More than 800,000 Americans, hundreds of businesses support clean water](#) – Rock River Times, 11/14/2014 – More than 800,000 Americans and 250 small businesses support restoring Clean Water Act protections to all of the nation's rivers and streams, Environment America said on the eve of a key deadline to submit comments.

[Craft brewers sign comment letter in support of CWA safeguards for US waters](#) – WaterWorld, 11/14/2014 – Weighing in on the national debate over [clean water protections](#), 32 members of the "Brewers for Clean Water" campaign today signed onto a comment letter in support of safeguards under the Clean Water Act (CWA).

## **Opinion**

[Proposed water regulations a threat to farmers, business](#) – The News-Gazette, 11/17/2014 – Get farmers together and you can usually expect conversation to bounce between the weather and, at least currently, whether or not they're done harvesting for the year. But this year, we've added a new topic to common conversation: the Environmental Protection Agency and Army Corps of Engineers' latest try at a government land-grab.

[Letter: Clean Water Act extension necessary to protect our water](#) – Daily Freeman, 11/16/2014 – The Clean Water Act has brought progress to the Hudson River, but in order to continue the Hudson on the path to success we must protect all the waterways in New York. A loophole in the Clean Water Act has left more than 55 percent of New York's rivers and streams, including many that feed into the Hudson, vulnerable to pollution.

[Letter: EPA should withdraw its proposed water rule](#) – The Buffalo News, 11/17/2014 – The Environmental Protection Agency and the U.S. Army Corps of Engineers have engaged the public via a regulatory rule that proposes to alter the definition of "waters of the United States" under the Clean Water Act.

[Letter: A logical plan for our future](#) – The Pueblo Chieftain, 11/15/2014 – As a seventh generation native Coloradan, and a nontraditional student studying biology and wildlife conservation at a local university, I strongly support the Clean Water Act.

[We all benefit from Clean Water rule](#) – TimesUnion, 11/14/2014 – Friday , the eight-month public comment period on redefining waters of the United States under the Clean Water Act came to a close.

[All Maryland's waterways deserve protection](#) – Baltimore Sun, 11/14/2014 – The Clean Water Act has brought progress to the Chesapeake Bay, but in order to continue the bay on the path to success we must protect all the waterways in Maryland, including the Anacostia River (["Close Clean Water Act loophole,"](#) Nov. 12).

## **Blogs/Social Media**

[American Farm Bureau Calls on EPA to Ditch the Waters of the US Rule](#) – AFBF Press Release, 11/14/2014 – The Environmental Protection Agency's and U.S. Army Corps of Engineers' proposed Waters of the U.S. rule is a blatant effort to expand federal authority over land use by regulating land as if it were "water," the American Farm Bureau Federation said today.

[APOV: Proposed new Clean Water Act rules would hurt WNY](#) – TheDailyNewsOnline, 11/17/2014 – The Environmental Protection Agency and the U.S. Army Corps of Engineers have engaged the public via a regulatory rulemaking that proposes to alter the definition of "Waters of the United States" under the Clean Water Act.

Results for #protectcleanwater

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- 1) **NWF Water** [@NWFwater](#)  
7hrs 24 mins left to tell [@EPA](#) to [#ProtectCleanWater](#) for many more splash fights for our future!
- 2) **Clean Water Action** [@CleanWaterNJ](#)  
Thank you to the 68 New Jersey leaders who signed on to support [@EPAwater](#) efforts to [#protectcleanwater](#) - [ow.ly/EiqsS](#)
- 3) **Robert Smith** [@NebraskaSower](#)  
[@CleanWaterNJ](#) NJ leaders please stand up for clean water for Nebraska farmers & ranchers. Ask [@corybooker](#) to vote no on Keystone XL [#NoKXL](#)
- 4) **PennFuture** [@PennFuture](#)  
Last chance to support common sense protections for our waters. Let [@EPA](#) know you want them to [#protectcleanwater](#) [secure2.convio.net/penn/site/Advo](#)
- 5) **NRDC Water** [@NRDCWater](#)  
Dirty water isn't a joke. LAST day to add your support to [#ProtectCleanWater](#), families, wildlife, & environment. [ow.ly/EhQFN](#)



## Document 19

**From:** [Levine, Larry](#)  
**To:** [Kopocis, Ken](#); [Sawyers, Andrew](#); [Nagle, Deborah](#); [Pollins, Mark](#); [Weiss, Kevin](#)  
**Cc:** [Gary Belan \(gbelan@americanrivers.org\)](#); [Devine, Jon](#); [Hammer, Rebecca](#); [eosann@nrdc.org](#); [Jeff Odefey \(JOdefey@americanrivers.org\)](#)  
**Subject:** RE: Input on Financial Capability Assessment Framework  
**Date:** Monday, November 17, 2014 8:38:09 AM  
**Attachments:** [NRDC comments on draft Fin Cap memo \(8-1-14\).pdf](#)  
[Statement Integrated Permitting and Planning 7.23.14.pdf](#)

---

Mr. Kopocis, Mr. Sawyers, Ms. Nagle, Mr. Pollins, and Mr. Weiss:

On behalf of NRDC and American Rivers, we write in regard to the EPA memo on “financial capability assessment,” for purposes of municipal CWA compliance, that is currently under development. We recently saw the EFAB comments on the draft memo and Mr. Sawyer’s memo to EFAB indicating that the agency expects to finalize the memo in November.

We have previously provided comments specifically on a draft of them memo and/or on this same topic – in a letter to OW and in a statement to a Congressional committee – identifying factors that should be considered in a financial capability assessment, beyond those in EPA’s most recent draft and those flagged in the EFAB comments. We strongly believe that, without accounting for these additional factors, a new “framework” for financial capability assessment would be – intentionally or not – slanted in favor of longer compliance schedules than necessary to address chronic wet weather pollution, inadequate sewage treatment, and other municipal CWA obligations.

I re-attach here the comments NRDC submitted to EPA in August on the draft Framework memo that Kevin Weiss shared with us in July, as well as the statement NRDC and American Rivers submitted jointly to the House T&I Committee.

In addition to the points raised in those comments, we wish to add one further factor to consider. Section 309(e) of the Clean Water Act provides that, when state law impedes a municipality’s ability to pay for the costs of a remedy because of constraints imposed by state law, the state is required to indemnify the municipality’s compliance costs. Since the draft Framework (and the current 1997 Guidance) includes factors related to a municipality’s ability to raise revenue through bonds, taxes, rates, and other means, the Framework should be clear that, whenever state law plays a role in limiting the ability of the municipality to raise revenue needed to achieve CWA compliance on any given schedule, such constraints cannot be used to justify a longer compliance schedule because the state is obliged under the CWA to absorb the costs that the municipality cannot pay directly due to such state law limitations.

We fully anticipate that EPA will consider the full range of comments that have been submitted on the draft Framework. We would welcome the opportunity to review a further draft or to meet with you to discuss these topics.

Please don’t hesitate to contact us with any questions.

Sincerely,



Larry Levine, Senior Attorney, NRDC  
Gary Belan, Director, Clean Water Program, American Rivers

---

**Lawrence Levine** | Senior Attorney | [Natural Resources Defense Council](#)  
Office: 212.727.4548 | 40 W 20th St., NY, NY 10011  
Admitted in New York

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Find more info on the Web: <http://www.nrdc.org/water> and <http://www.nrdc.org/newyork>

---

**From:** Weiss, Kevin [mailto:Weiss.Kevin@epa.gov]  
**Sent:** Thursday, October 23, 2014 3:26 PM  
**To:** Levine, Larry  
**Subject:** RE: Input on Financial Capability Assessment Framework

Larry:

Here is the link:

[http://www2.epa.gov/sites/production/files/2014-10/documents/financial\\_capability\\_assessment\\_framework.pdf](http://www2.epa.gov/sites/production/files/2014-10/documents/financial_capability_assessment_framework.pdf)

Kevin

---

**From:** Levine, Larry [mailto:llevine@nrdc.org]  
**Sent:** Tuesday, October 21, 2014 2:18 PM  
**To:** Weiss, Kevin  
**Subject:** RE: Input on Financial Capability Assessment Framework

Hi Kevin – did the EAB ever submit their comments on the draft? If so, would you forward? Thanks

-Larry

---

**From:** Weiss, Kevin [mailto:Weiss.Kevin@epa.gov]  
**Sent:** Friday, August 01, 2014 3:55 PM  
**To:** Levine, Larry  
**Subject:** RE: Input on Financial Capability Assessment Framework

Larry:

Thanks – FYI – we have recently been told that the EFAB comments won't be ready until the end of August. I'll send you them when they come in.

Kevin

---

**From:** Levine, Larry [mailto:llevine@nrdc.org]  
**Sent:** Friday, August 01, 2014 3:53 PM

**To:** Weiss, Kevin

**Subject:** RE: Input on Financial Capability Assessment Framework

Hi Kevin – please let me know if you have any questions on our comments. I would also like to see a copy of EFAB's comments, which you had indicated were expected by August 1 as well.

Thanks,

-Larry

---

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Follow my blog at: <http://switchboard.nrdc.org/blogs/llevine/>

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Find more info on the Web: <http://www.nrdc.org/water> and <http://www.nrdc.org/newyork>

---

**From:** Levine, Larry

**Sent:** Friday, August 01, 2014 3:51 PM

**To:** 'Stoner.Nancy@epa.gov'

**Cc:** Nagle, Deborah ([Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)); Mark Pollins ([Pollins.Mark@epamail.epa.gov](mailto:Pollins.Mark@epamail.epa.gov)); 'Weiss, Kevin'; [JOdefey@americanrivers.org](mailto:JOdefey@americanrivers.org); Hammer, Rebecca; Devine, Jon ([jdevine@nrdc.org](mailto:jdevine@nrdc.org)); Osann, Ed

**Subject:** RE: Input on Financial Capability Assessment Framework

Dear Acting Assistant Administrator Stoner,

On behalf of NRDC, and as requested by your staff, please see the attached comments on EPA's Financial Capability Assessment Framework document. We recommend a number of ways that the Framework should be strengthened to ensure that it drives policies and programs at the local level that maximize the availability of funds necessary to expeditiously attain Clean Water Act compliance, while at the same time addressing concerns raised by the regulated community about financial capability.

Please feel free to contact me with any questions.

Sincerely,

---

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Find more info on the Web: <http://www.nrdc.org/water> and <http://www.nrdc.org/newyork>

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**From:** Weiss, Kevin [<mailto:Weiss.Kevin@epa.gov>]

**Sent:** Tuesday, July 08, 2014 1:16 PM  
**To:** Hammer, Rebecca; Levine, Larry; [JDefey@americanrivers.org](mailto:JDefey@americanrivers.org)  
**Subject:** Input on Financial Capability Assessment Framework

Rebecca/Larry/Jeff:

EPA would like input from NRDC and American Rivers on the attached draft Financial Capability Assessment Framework document. Please provide comments to me by email by **August 1, 2014**. Also, if you are aware of any other environmental advocacy group that is well positioned to review this document, please let me know. Let me know if you have any questions.

### Background

In 1997, EPA issued the “Combined Sewer Overflows: Guidance for Financial Capability Assessment and Schedule Development” (FCA Guidance) (EPA 832-B-97-004) to provide a nationally consistent reference point to aid all parties in negotiating reasonable and effective schedules for implementing CWA requirements. It provides for a two phased approach, where both the impact on residential rate payers and the financial capability of the permittee are evaluated using a suite of indicators. The FCA Guidance encourages permittees to provide any additional information that would be useful in understanding the unique circumstances of their community and how it may affect CWA schedules.

In May 2012, EPA released its “Integrated Municipal Stormwater and Wastewater Planning Approach Framework.” The Integrated Planning approach encourages municipalities to develop integrated plans for CWA requirements that address the most pressing health and environmental protection issues first and encourages the use of innovative approaches like green infrastructure. Building on that framework, the purpose of this document is to provide greater clarity on the approaches and flexibility in assessing a permittee’s financial capability and how that assessment can impact schedules for implementation.

EPA is developing a Financial Capability Assessment (FCA) Framework document that would build upon the Integrated Municipal Stormwater and Wastewater Planning Approach Framework. The FCA framework would clarify aspects of the 1997 guidance and would identify examples of additional information that communities can provide to supplement the findings from the two part assessment process identified in the 1997 guidance. The additional information will be an important part of the evaluation of a community’s financial capability.

EPA is asking for input on the attached March 4, 2014, draft Financial Capability Assessment Framework document to ensure that the document identifies appropriate examples of additional information that communities could provide to supplement the findings of the two part assessment process identified in the 1997 guidance. Specifically, the Agency requests insights on:

- Recommendations of other metrics that could be considered for inclusion in the draft framework as a means to supplement the findings of the two part assessment process identified in the 1997 guidance; and
- Recommendations on how the additional information identified in the draft framework

can be utilized to supplement the two part assessment process identified in the 1997 guidance.

Thanks

Kevin

Chemical Engineer, Water Permits Division, United States Environmental Protection Agency, Washington DC  
[weiss.kevin@epa.gov](mailto:weiss.kevin@epa.gov) (202) 564-0742

## Document 20

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** Fwd: Attn: Docket ID No. EPA-HQ-OW-2011-0880  
**Date:** Saturday, November 15, 2014 9:23:56 AM  
**Attachments:** [Clean Water Protection Rule Proposal -- NRDC et al comments.pdf](#)  
[ATT00001.htm](#)

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Attached, FYI, are our comments on the clean water proposal, filed last night.

Best, Jon

## Document 21

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Press Hit Roundup Wed. 11/12/14  
**Date:** Thursday, November 13, 2014 8:42:02 AM

---

FYI

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Natural Resources Defense Council

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

November 12, 2014

## News Coverage

[Environmentalists seek more protection for Long Island Sound](#) - 11/10/14 – New Haven Register - It doesn't matter how small the waterway is, it needs to be protected in order to keep Long Island Sound clean, according to a coalition of environmental activists.

[Proposed Water Rule Could Put 'Property Rights of Every American Entirely at the Mercy' of EPA](#) - Daily Signal – 11/12/14

[Sen. Jim Inhofe: EPA should withdraw proposed water rule](#) - NewsOK.com – 11/12/14

[U.S. Chamber, allies urge EPA to ditch 'Waters of U.S.' rule](#) - Agri-Pulse - 1 hour ago - WASHINGTON, Nov. 12, 2014 - The U.S. Chamber of Commerce along with 375 trade associations and chambers from all 50 states are calling on the EPA and the Army Corps of Engineers to withdraw the proposed "Waters of the U.S." (WOTUS) rule, saying ...

[Take Action to Fight EPA Overreach](#) - Daily Journal Online - 1 hour ago - For months I've been telling you about how detrimental the new Waters of the United States Environmental Protection Agency regulation would be to our way of life, and now there's something we can do to stop it. The federal government is accepting ..

[Texas Association of Business Asks EPA to Withdraw its "Waters of the US ...](#) - MyHighPlains - 2 hours ago - The Texas Association of Business (TAB) today joined with more than 300 trade

associations and chambers from 50 states representing a wide range of industries to voice strong concerns with the U.S. Environmental Protection Agency. AUSTIN -- The Texas ...

[Waters of the US update](#) - Pork Magazine - 4 hours ago -The rule defining “Waters of the U.S.” under the Clean Water Act (CWA) that has been proposed by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) has a comment period that will end Nov 14th 2014. This has been ...

[Texas Association of Business Asks EPA to Withdraw its “Waters of the US ...](#) - Big Country Homepage - 3 hours ago -In light of the overwhelming evidence that the proposed rule would have a devastating impact on businesses, states, and local governments without any real benefit to water quality, the Agencies should immediately withdraw the waters of the U.S. proposal ...

## **OPed/LTE**

[Close Clean Water Act loophole](#) -11/12/14 - Baltimore Sun - The Clean Water Act has helped restore polluted rivers for decades, assuring that Americans across the country have access to the clean drinking ...

[Letter: EPA water proposal needed to restore protections](#) – 11/12/14 - Bend Bulletin - Your recent editorial, “EPA water proposal is too broad,” undersells the significant impact that closing the loopholes in the Clean Water Act can have ...

## **Blogs/Social Media –**

[Positive Environmental News? It's true](#) – Beyond Chron – 11/12/14 - EA (Margie Alt)

Top hits for #protectcleanwater –

- [Clean Water Action @cleanh2oaction](#) 8h8 hours ago

[#ProtectCleanWater](#). Get your comments in today - <http://www.protectcleanwater.org> 0 replies 4 retweets 2 favorites

- [NRDC @NRDC](#) 22m22 minutes ago



LAST CALL! Protect families, wildlife, and the environment by urging EPA to [\*\*#ProtectCleanWater\*\*](http://on.nrdc.org/1szgD0n): <http://on.nrdc.org/1szgD0n>

0 replies 5 retweets 7 favorites

- [CleanWaterAction MD](#) [@CleanWater\\_MD](#) 1h1 hour ago

Final weeks to comment and [\*\*#protectcleanwater\*\*](#) WE NEED A RT STORM! sign & RT <http://bit.ly/ZTml70>

- [NRDC Water](#) and 1 other retweeted

[NRDC](#) [@NRDC](#) 2h2 hours ago

The [@EPA](#) and [@USACEHQ](#) want to [\*\*#ProtectCleanWater\*\*](#), so polluters have released a flood of exaggerations and lies: <http://on.nrdc.org/1sETISm>

### Top Hits for #Cleanwateract

- [Environment Florida](#) and 3 others follow [com @VoiceofFLBiz](#) 2h2 hours ago

AIF's Tom Feeney in [@TheNewsPress](#) 'Caution to define waters covered under [\*\*#CleanWaterAct\*\*](#)' <http://newspr.es/1pRKjet> [\*\*#Florida\*\*](#)

- [Clean Water Action](#) [@CleanWaterCT](#) 3h3 hours ago

For you and I, all water deserves protection– For the [\*\*#CleanWaterAct\*\*](#) to work, we need you NOW more than ever <http://bit.ly/ZTml70>

- [US Dept of Interior](#) follows [Notice and Comment](#) [@NoticeComment](#) 3h3 hours ago

What waters are covered by [\*\*#CleanWaterAct\*\*](#)? [@EPA](#) proposes this answer: <http://ow.ly/DGbFf> [\*\*#FedFeed\*\*](#)

- [National Wildlife](#) follows [Brandon Butler](#) [@confedmo](#) 3h3 hours ago 2 days left to send comments supporting the [\*\*#CleanWaterAct\*\*](#). Go to <http://goo.gl/NofZww> for a video and the link to send your comments.
- [vance vargas](#) [@rainbowtiger21](#) 22h22 hours ago SMH, b/c clean drinking water is NOT a partisan issue. I'm w/[@EPA](#) on [\*\*#CleanWaterAct\*\*](#)! [@LCVoters](#) via [@hashtagclimate](#) <http://clim.at/i9S>

### Top Hits for #WOTUS

- [Ken Calvert](#) [@KenCalvert](#) 1h1 hour ago

RT [@USChamber](#): U.S. Chamber leads 375 trade associations and Chambers asking [@EPA](#) to withdraw its [\*\*#WOTUS\*\*](#) proposal - <http://uscham.com/1oM7sOK>

- [Senator Deb Fischer](#) [@SenatorFischer](#) 2h2 hours ago

Deadline to voice your concern on EPA's harmful [\*\*#WOTUS\*\*](#) Rule is Friday. Submit your comments at <http://www.regulations.gov/#!submitComment;D=EPA-HQ-OW-2011-0880-0001...>

- [SE Coal Ash Campaign](#) and 21 others follow

- [The TRCP](#) [@TheTRCP](#) 3h3 hours ago

RT [@MRNetwork](#): [@TheTRCP](#) Today is the social media blitz to [\*\*#protectcleanwater\*\*](#). Join us! <http://ow.ly/xy22h> [\*\*#WOTUS\*\*](#) [\*\*#DitchtheMyth\*\*](#) [@EPA](#)

0 replies 1 retweet 1 favorite

- [HCinR3](#) [@HCinR3](#) 3h3 hours ago

The EPA [\*\*#WOTUS\*\*](#) rule would regulate land use without cleaner lakes & rivers. <http://bit.ly/1rO43MS> [\*\*#DitchTheRule\*\*](#)



0 replies 0 retweets 0 favorites

- [Manny Gonzales @Mannydinho](#) 3h3 hours ago

Local view: North Shore residents know clean water, need the Clean Water Act | Duluth News Tribune

[http://www.duluthnewstribune.com/content/local-view-north-shore-residents-know-clean-water-need-clean-water-act ...](http://www.duluthnewstribune.com/content/local-view-north-shore-residents-know-clean-water-need-clean-water-act...) #WOTUS @elpcenter

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 11/10/2014  
**Date:** Monday, November 10, 2014 2:28:26 PM

---

FYI

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

November 10, 2014

-

## News Coverage

[Mullin in McAlester today](#) – McAlester News-Capital, 11/7/2014 – Stories abound about “land grabs.” Now, a growing group of concerned individuals and organizations are concerned about what they consider a “water grab” — an attempt by the federal government that could strongly affect rights of individual property owners, not only in Oklahoma, but around the nation.

[St. Tammany joins movement against ‘Waters of the US’ rule](#) – Nola Times-Picayune, 11/7/2014 – St. Tammany Parish government has stepped into the fray over the federal “Waters of the U.S.” rule, saying it could wreak havoc on the parish's efforts to keep its many ditches and waterways flowing freely, drain local budgets and hamper business development.

-

## Opinion

[Caution to define waters covered under Clean Water Act](#) – News-Press, 11/9/2014 – Florida's geology, topography, and water courses are like no other state in the nation, dominated by vast flood plains along the coast and countless wetlands, rivers, streams and lakes inland.

[Guest column: Florida's lifeblood is clean water](#) – St Augustine Record, 11/7/2014 –

This letter is to express my strong objection to Florida Power and Light's proposal before the Florida Public Service Commission to use ratepayer money to fight proposed federal clean water rules.

[Feds seek control over ponds, puddles, ditches](#) – Teton Valley News, 11/7/2014 – I have previously written about the U.S. Environmental Protection Agency's (EPA) efforts to wrongly assert jurisdiction over nearly all waters of the United States.

Results for #protectcleanwater

Top / [All](#)

- 1) **NWF Water** [@NWFwater](#)  
Gotta keep clean. [bit.ly/1tnFtST](http://bit.ly/1tnFtST) [#ProtectCleanWater](#)
- 2) **1 Mississippi** [@1\\_Mississippi](#)  
Join the [@\\_MRNetwork](#) on Nov 11 to [#ProtectCleanWater](#) and the [#MississippiRiver](#).  
[ow.ly/DYw4K](http://ow.ly/DYw4K) [@BarracudaInOz](#) [@NWF](#)
- 3) **MRNetwork** [@\\_MRNetwork](#)  
ATTENTION: people who swim, fish or drink water. Blow up social media Nov.11th for a final push to [#Protectcleanwater](#) [ow.ly/DYtTn](http://ow.ly/DYtTn)
- 4) **Nancy R. Strong** [@nancysuzyq](#)  
Who's fighting the clean water rule? Coal companies that dump the wastes from their mining into mountain streams. [#ProtectCleanWater](#)"
- 5) **Nancy R. Strong** [@nancysuzyq](#)  
Who's fighting the clean water rule? Developers who want to pave over wetlands without restrictions. [#ProtectCleanWater](#)"

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: WOTUS Press Roundup - Wednesday 11.5.14  
**Date:** Wednesday, November 05, 2014 6:11:29 PM

---

FYI

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

Wednesday, November 5, 2014

## News Coverage

**[Commissioners concerned over EPA rule change](#)** – 11/5/15 - Bitterroot Star  
-The Commissioners believe that the Clean Water Act, enacted under the Interstate Commerce Clause, only applies to “navigable” waterways.

**[Environment N.Y. Touts Progress Of Hudson River Cleanup](#)** – 11/4/14 –  
Ossining Daily Voice - On the heels of the 42nd anniversary of the federal Clean Water Act, a new report tells the story of how the bedrock environmental law has helped to restore and protect the Hudson River.

**[Citing ‘Inaccurate’ Claims, Odell Vetoes Measure Opposing Clean Water Act Changes](#)** – 11/4/14 – Phillipstown Info - Citing “inaccurate and misleading” assertions in a resolution that attacked federal efforts to enhance the Clean Water Act, Putnam County Executive MaryEllen Odell recently vetoed the measure, which the Putnam County Legislature had passed Oct. 7 after months of dithering.

**[Monday Morning Regulatory Review II](#)** – 11/3/14: Gainful Employment; WOTUS Science; and OMB Reviews – [federalregister.com](http://federalregister.com)

**[WOTUS comes to Louisiana, and it’s coming soon to you](#)** – 11/3/14 –  
environment guru - The U.S. Army Corps of Engineers flexed muscles it

may not yet have the right to use in declaring a Louisiana property to be a wetland

### OPed/LTE

[Thanks For Support Of Clean Water Regs](#) – 10/21/14 – Hartford Courant

[Letter: Educate yourself on the Clean Water Act](#) -Sioux Falls Argus Leader – 11/5/14 - Clean water is vital for agriculture, tourism and small business. It is only common sense that we take steps to protect this resource and ensure that the ..

[Commentary: It's time to tell EPA and the Corps: Ditch the rule](#) – 11/5/14 - California Farm Bureau - The proposed rule would extend Clean Water Act requirements to areas that have not been previously regulated as "waters of the United States," such ...

[EPA must restore water safeguards](#) – 11/4/14 – Atlanta Journal-Constitution, acj.com

### Blogs/Social Media –

[670 Acres on the Waccamaw River Saved](#) - American Rivers (blog) The acquisition was made possible due to part an award from a 2012 court-ordered settlement of the Clean Water Act case brought by the US Attorney ...

[Shake It Off & Keep Your Eye on the Ball: Americans Expect Clean Water](#) – Clean Water Action (blog) – 11/5/14

[Ignoring the Public, GOP Leadership Promises Worst Attack on Environmental Protection in Decades](#) – 11/5/14 – NRDC (blog) -

## Top hits for #protectcleanwater –

- [Lynn Thorp @LTCWA](#) 3h3 hours ago

From [@CleanH2OAction](#) President RT [@bwendelgass](#): the public still expects Congress to [#ProtectCleanWater](#). <http://bit.ly/1u0P8BY>

0 replies 0 retweets 0 favorites

- [bwendelgass @bwendelgass](#) 4h4 hours ago

Some big losses of enviro champions last night, but the public still expects Congress to [#ProtectCleanWater](#). <http://bit.ly/1u0P8BY>

0 replies 1 retweet 1 favorite

- [EnvironmentMinnesota @EnvironmentMN](#) 5h5 hours ago

Success at [#powderhorn](#) shows reason to [#protectcleanwater](#). We want more [#cleanwater](#) success stories! [@tcdailyplanet](#)  
[http://www.tcdailyplanet.net/news/2014/10/30/we-want-more-clean-water-success-stories#.VFphrUZ\\_UvM.twitter ...](http://www.tcdailyplanet.net/news/2014/10/30/we-want-more-clean-water-success-stories#.VFphrUZ_UvM.twitter...)

0 replies 1 retweet 0 favorites

- [Jon Scott @jscottnh](#) 5h5 hours ago

[#ShakeltOff](#) and Keep Your Eye on the Ball. Americans (still) want clean water.

<http://wp.me/ph6KU-11g> [#ProtectCleanWater](#).org

0 replies 1 retweet 0 favorites

1. •

- [NWF Water @NWFwater](#) 7h7 hours ago

I'm the strong silent type, but seriously [#ProtectCleanWater](#) - <http://bit.ly/1tnFtST>

## Top Hits for #Cleanwateract

- [Toxic - EGuru @Toxicvironguru](#) 10h10 hours ago

ESH Manager: Dallas, TX - . â?¢ Must have knowledge of characterization and...

<http://bit.ly/10m4YLk> [#CERCLA](#) [#CleanWaterAct](#) [#CleanAirAct](#)

0 replies 0 retweets 0 favorites

- [Environment Guru @environmentguru](#) Nov 4

WOTUS comes to Louisiana, and it's coming soon to you: The U.S. Army Corps of Engineers flexed... <http://bit.ly/1AbpX4m> [#CleanWaterAct](#)

0 replies 0 retweets 0 favorites

- [eguru jobs @egurujobs](#) Nov 4

Biologist: ICF International - Sacramento, CA - of principles and concepts for natural... <http://dlvr.it/7Q1jkv> [#NEPA](#) [#CEQA](#) [#CleanWaterAct](#)

0 replies 0 retweets 0 favorites

- [Annemarie Weers @AnnemarieWeers](#) Nov 3

Don't be fooled by Ernst's 'packaging' <http://dmreg.co/1wZtkX6> via [@DMRegister](#)  
[#JoniErnst](#) will abolish [#EPA](#) [#CleanWaterAct](#) & [#DeptEdu](#) [#laSen](#)

0 replies 2 retweets 1 favorite

- [Toxic - EGuru @Toxicvironguru](#) Nov 3

Environmental Engineer: Intrepid Potash - Carlsbad, NM - o Clean Water Act o...

<http://bit.ly/10fz4jH> [#RCRA](#) [#CleanWaterAct](#) [#CleanAirAct](#)

## Top Hits for #WOTUS

- [NACD @NACDconserve](#) 2h2 hours ago

Check out this morning's interview with NACD President Earl Garber about Waters of the U.S. [#WOTUS](#) on [@agritalkproduce](#) <http://bit.ly/1vKpQVt>

0 replies 1 retweet 0 favorites

- [Don Carr @donpcarr](#) 7h7 hours ago

Hard to take virulent climate change denier [@SDFarmBureau](#) president seriously in this [@toddneeleyDTN](#) [#WOTUS](#) piece <http://ow.ly/DRFrA>

0 replies 0 retweets 0 favorites

- [Todd Neeley @toddneeleyDTN](#) 9h9 hours ago

Dry land could conceivably be considered [#WOTUS](#) in new rule. <http://tinyurl.com/8zua8pa>

0 replies 2 retweets 0 favorites

- [odd Neeley @toddneeleyDTN](#) 9h9 hours ago

SD ranch family sees [#WOTUS](#) rule danger on land covered with ephemeral, intermittent streams. <http://tinyurl.com/8zua8pa>

0 replies 4 retweets 0 favorites

- [Ron Hays @Ron on RON](#) 18h18 hours ago

Ok Sen Jim Inhofe will take on Gina McCarthy of EPA as New Chair of the Environment and Public Works

Cmte- hopes to slow [#WOTUS](#) [#GOPWins](#)

0 replies 5 retweets 2 favorites

- [Amena H. Saiyid @amenasaiyid](#) 18h18 hours ago

.[@Transport](#) loses two leading Dems with diametrically opposite views on [#WOTUS](#) rule : [@RepNickRahall](#) opposed, while [@TimBishopNY](#) backed it.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 11/3/2014  
**Date:** Monday, November 03, 2014 1:23:38 PM

---

FYI

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

November 3, 2014

## News Coverage

[Trick or truth on Clean Water Act rule](#) – Cattle Network, 10/31/2014 – The American Farm Bureau Federation today released a legal analysis, “Trick or Truth? What EPA and the Corps of Engineers Are Not Saying About Their Waters of the U.S. Proposal.”

[Clean water group calls for protections](#) – Sauk Valley, 10/31/2014 – On the heels of the 42nd anniversary of the Clean Water Act, a new report tells how the bedrock environmental law has helped to restore and protect the Apple River, where citizens banded together to protect the river and Apple River Canyon State Park from efforts to construct two factory farms within the river’s watershed.

[Ravalli County sending letter of worry over EPA water rules](#) – 8KPAX 10/31/2014 – Expressing fears about losing the ability to manage water in the Bitterroot, Ravalli County commissioners are going on record against a rule change which could extend federal control over the watershed in the latest episode in the on-going struggle over local versus federal control in the valley.

[McConnell, Paul attack EPA water rule](#) – The Courier-Journal, 10/31/2014 – Sens. Mitch McConnell and Rand Paul have found one more way to attack the U.S. Environmental Protection Agency, joining other Republicans, the Farm Bureau and other business interests in going after a proposed rule that seeks to clarify the nation's wetlands policies.

[ND officials say EPA’s proposed Waters of the US rule is ‘unworkable’](#) – Prairie



Business, 10/31/2014 – State government leaders said they are finalizing comments urging two federal agencies to withdraw a proposed rule that Gov. Jack Dalrymple said would “drastically expand” federal authority over North Dakota waters.

[Clean Water Groups Highlight Progress for Monterey Bay, Call for More Success Stories](#) – Santa Cruz IMC, 10/30/2014 – On the heels of the 42nd anniversary of the Clean Water Act, a new report (see PDF) tells the story of how the bedrock environmental law has helped to restore and protect Monterey Bay, funding conservation for a key tract of land upstream.

## **Opinion**

[Support Clean Water Act](#) – Baltimore Sun, 11/3/2014 – On the 42nd anniversary of the Clean Water Act, a new report from Environment America, "Waterways Restored," highlights the success the law has meant for the Anacostia River, taking it from a state of horrific pollution to giving some hope that it will be safe for swimming and fishing in little more than a decade.

[Ernst didn't learn the same things on the farm as I did](#) – The Des Moines Register, 11/3/2014 – As a fellow hog-castrating, farm-raised Iowa female, I can identify with and appreciate Joni Ernst's background. But I'm not going to be voting for her, and here's why: Ernst is opposed to the Clean Water Act...

[Scott Ruble and Nathan Weaver: Protect the bay – restore Clean Water Act](#) – Santa Cruz Sentinel, 11/01/2014 – Monterey Bay is a California treasure. It's refuge for rare wildlife including sea otters, dolphins, elephant seals, and migrating families of gray and humpback whales. Together, Santa Cruz and Monterey Counties brought in over \$3 billion in travel spending for 2012 alone.

[Congressional delegation: Farmers, ranchers right to distrust the EPA](#) – Casper Star Tribune, 11/1/2014 – Environmental Protection Agency officials want to put a good face on their recently proposed water rule that would give the EPA and Army Corps of Engineers virtually unlimited regulatory authority over state and local waters.

[Florida Power & Light: Don't Use My Money to Pay for Dirty Water Policy](#) – Sun-Sentinel, 10/31/2014 – When I first moved to Florida from the northeast, I was lured in by the beautiful beaches, pristine lagoons and unique wetlands. My husband and I have enjoyed hiking and kayaking throughout the Everglades, Miami beaches and the Keys, and I can't imagine a more perfect place to call home.

[EPA needs to stand up](#) – Hibbing Daily Tribune, 10/31/2014 – On the 42nd anniversary of the Clean Water Act, Environment Minnesota released “Waterways Restored,” a report highlighting the exceptional progress made in Powderhorn Lake’s water quality. According to the report, the lake used to be a destination recreation lake, then could not keep fish alive by the 1990s.

## **Blogs/Social Media**

[Bad public policy hinders small business](#) – The Hill blog, 11/3/2014 – As the U.S economy remains stuck in neutral, small businesses owners, often an optimistic

group by nature, have grown increasingly cynical about the future. The problems are clear. But, despite concerns from businesses of all sizes, federal agencies continue to dole out costly and burdensome new regulations at the expense of sustainable growth.

[739,794 Comments And Counting To Support Clean Water](#) – American Rivers The River Blog, 10/30/2014 – 739,794 comments have been written in support of the finalization of the EPA and Army Corps proposed rule, “Definition of ‘Waters of the United States’ Under the Clean Water Act.”

Results for #protectcleanwater

Top / [All](#)

- 1) **CleanWaterAction MD** [@CleanWater\\_MD](#)  
CWA "Chesapeake Currents" fall newsletter is out now! [#ProtectCleanWater](#)  
[bit.ly/1qmhWQe](http://bit.ly/1qmhWQe)
- 2) **Environment Illinois** [@EnvironmentIL](#)  
Who's fighting the clean water rule? Big Ag supported factory farms produce millions of pounds of manure annually. [#ProtectCleanWater](#)
- 3) **American Rivers** [@americanrivers](#)  
Thousands submit comments to [@EPA](#), [@USACEHQ](#) over 'Waters of the U.S.' definition urging them to [#protectcleanwater](#) [ow.ly/DCwoF](http://ow.ly/DCwoF)
- 4) **American Rivers** [@americanrivers](#)  
[#Cleanwater](#) is too important for its protections to continue to undergo legal limbo.”  
[ow.ly/DCvAn](http://ow.ly/DCvAn) [#protectcleanwater](#)
- 5) **Two Pocket Tom** [@tommy\\_Ni\\_Ni](#)  
MT [@americanrivers](#): [#Cleanwater](#) is 2 important 4 its protections 2 continue 2 undergo legal limbo [#protectcleanwater](#) [pic.twitter.com/3DIK7xwzyF](http://pic.twitter.com/3DIK7xwzyF)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Thurs. Oct. 30 Clean Water Protection Rule Media Report  
**Date:** Thursday, October 30, 2014 2:15:59 PM

---

FYI

Jon Devine

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 30, 2014

## News Coverage

[Willamette swimmable thanks to \*Clean Water Act\* – 53% Oregon ...](#) -

WilliametteLive.com-9 hours ago - On October 21, Environment Oregon, a statewide environmental advocacy organization, released a report on the success of the *Clean Water* ...

[Commissioners to comment on EPA rule change](#) - Bitterroot Star - 19

hours ago -The Ravalli County Commissioners are composing a written comment on a proposed rule change under the federal Clean Water Act. The Environmental Protection Agency and the Army Corps of Engineers are considering a rule change that, according to ...

[Drainage Ditches Aren't Navigable Waters](#) - Daily Caller-3 hours ago - In

April, the EPA and the U.S. Army Corps of Engineers jointly released a proposed rule called the “Definition of *Waters of the U.S.*” This ..

[NCBA And PLC Ask Feds To Withdraw \*Waters Of The US\* Rule](#)

WNAX-Oct 29, 2014

## OPed/LTE

**Commentary: Strengthening and protecting the *Clean Water Act*** - Palm Beach Post-18 hours ago - The *Clean Water Act*, which turned 42 on Oct. 18, is the most successful tool our country has to protect our water. In the past four decades, it has ...

## **Blogs/Social Media –**

Top Result for #protectcleanwater

1) **HannahMiller215 @HannahMiller215** 26s27 seconds ago

Loopholes let polluters dump industrial chems, bacteria, etc. into our H2O. Help

**#ProtectCleanWater**: [https://secure.nrdconline.org/site/Advocacy?](https://secure.nrdconline.org/site/Advocacy?cmd=display&page=UserAction&id=3598&s_src=twsharewotus4#.VFJ3hiEP048.twitter...)

[cmd=display&page=UserAction&id=3598&s\\_src=twsharewotus4#.VFJ3hiEP048.twitter ...](https://secure.nrdconline.org/site/Advocacy?cmd=display&page=UserAction&id=3598&s_src=twsharewotus4#.VFJ3hiEP048.twitter...)

(from **@NRDC**)

2) **Environment New York @EnvNY** 3h3 hours ago

Who's fighting the clean water rule? A developer, Rapanos, filed the court case that first created the **#CWA** loopholes. **#ProtectCleanWater**

3) **WaterBean @WaterBean Clean** 3h3 hours ago

Retweet if you support the Clean Water Act being proposed to the **@FDA**.

**#ProtectCleanWater**

4) **John Rumpler @JohnRumpler** 6h6 hours ago

why are they fighting vs. clean water? <http://tinyurl.com/o6la4qv> **#protectcleanwater**

5) **HealthyriversMT @HealthyriversMT** 16h16 hours ago

Land acquisition **@nature\_org** will **#keepitpublic** for the future and **#ProtectCleanWater**.

<http://bit.ly/1oVxwHs>

Phil Dimotsis

National Program Assistant

Clean Water Action

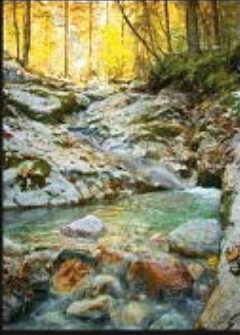
1444 Eye St. NW Suite 400

Washington, DC 20005

Office: 202-895-0420 ext.104

Cell: 540-290-9392

**#ProtectCleanWater**



Scan this to  
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NOW**



CLEAN WATER ACTION • CLEAN WATER FUND

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] Wednesday Oct. 29 Press Hit Round-Up  
**Date:** Wednesday, October 29, 2014 5:24:43 PM

---

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 29, 2014

## News Coverage

[Thousands supporting clean water submit comments to EPA, USCE over 'Waters ...](#) - WaterWorld - 2 hours ago - The two agencies have proposed a rule that will help fix problematic language in the Clean Water Act (CWA) that leaves streams, wetlands and other waterbodies vulnerable to pollution (see "EPA, Army Corps propose rule to clarify protection for U.S. streams, ...

[Editorial: FPL wants ratepayers to bankroll challenge of clean water regulations](#) – 10/28/14 – St. Augustine Record - Last week, FPL asked the PSC to allow it to use \$230,000 in a campaign to fight proposed revisions to the federal Clean Water Act...

[The Clean Water Act 42 Years Later](#) - Huffington Post-22 hours ago - The series of case studies shows clearly that the *Clean Water Act* has restored polluted rivers and threatened bays across the country.

[Some farmers upset over proposed EPA regulations](#) - WGEM - 15 hours ago -LEE COUNTY, Ia. (WGEM) - The government is considering sweeping

changes to the Clean Water Act, which could have a big impact on farmers in the Tri-States. The Environmental Protection Agency says it needs to protect streams and wetlands from runoff ...

[My Turn: The Republican Party once led the charge to protect the environment. Why did that change?](#) - Concord Monitor – 10/29/14 – He lauded the enactment of the Environmental Policy Act (creating the EPA), the Clean Water Act, Marine Mammal Protection Act, Endangered ...

[County Commission opposes new 'Waters' regulation](#) - Nebraska City News Press – 10/29/14

[Viewpoint: Commission on water: No plan, no direction](#) - Ravalli Republic – 10/28/14 - The Clean Water Act was a response to the lack of will by county and state bodies to address serious health and economic concerns when in 1969 th

[NCBA Files Comments on Waters of the U.S. Proposal](#) - Farm Futures – 10/28/14 - "The proposed rule places no limit on the federal government's authority over water, violating the Clean Water Act as articulated by the Supreme Court,

[State objects to EPA clean-water rule](#) - Idaho Mountain Express and Guide - 3 hours ago - The EPA released its 88-page proposed rule on March 25, stating that its intent was to address four U.S. Supreme Court decisions by specifying which bodies of water could be regulated under the Clean Water Act. However, the proposal quickly drew ...

[EPA Muddies Waters With Potential Rules](#) - Law Week Colorado - 4 hours ago - Colorado Attorney General John Suthers stepped up in opposition to the federal government's proposed rules for the Waters of the United States under the Clean Water Act. In a letter the Environmental Protection Administration last Wednesday, one day after ...

[Boozman says EPA water regulations are "harmful", calls for changes](#) - KASU - 8 hours ago - Surface water throughout the country is already protected, either by the federal government under the Clean Water Act, or by a patchwork of state and local measures that take into consideration local conditions, priorities, needs, and circumstances.

OPed/LTE

[Clean Water Act loophole must be closed](#) – MinnPost - Oct 28, 2014

[Letter: Anniversary of the Clean Water Act](#) - Rockford Register Star - Oct 27, 2014

[Wrong on EPA water proposal](#) - Tribune-Review, PA -18 hours ago

[Clean drinking water](#) – Opinion - MiamiHerald.com - 17 hours ago

[Opinion: Protecting Water Strengthens American Economy](#) - Greater Wilmington Business Journal - 31 minutes ago

[Time to Stand Up to Big-Time Polluters](#) - Baltimore Jewish Times - 3 hours ago

### **Blogs/Social Media –**

Top Results for #protectcleanwater:

1) [Environment Oregon @enviroregon](#) 4h4 hours ago

Oregon's rivers cleaner today b/c of [#cleanwater](#) act. [#protectcleanwater](#)  
<http://goo.gl/uuLhUy> [@huffpostgreen](#)

2) [Clean Water Action @cleanh2oaction](#) 2m2 minutes ago

Our [#ProtectCleanWater](#) Press Conference with [.@EPAWater](#) and [.@SenatorCardin](#)  
<http://youtu.be/TLKplSnjbeY>

3) [Environment America @EnvAm](#) 4h4 hours ago

We're highlighting the polluters who don't want to [#protectcleanwater](#) this week. First up, Big Oil. <http://goo.gl/QAqH9G>

4) [Environment America @EnvAm](#) 1d1 day ago

Boston Harbor, Cuyahoga, Puget Sound all cleaner today b/c of [#cleanwater](#) act.  
[#protectcleanwater](#) <http://goo.gl/uuLhUy>

Cheers,

Phil Dimotsis  
National Program Assistant  
Clean Water Action  
1444 Eye St. NW Suite 400  
Washington, DC 20005  
Office: 202-895-0420 ext.104  
Cell: 540-290-9392





**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 10/28/2014  
**Date:** Tuesday, October 28, 2014 2:57:20 PM

---

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---

**From:** Watkins, Glenn [<mailto:g Watkins@nrdc.org>]  
**Sent:** Tuesday, October 28, 2014 12:00 PM  
**To:** Clean Water Working Group  
**Cc:** Mickelson, Rachel  
**Subject:** [clean-water-wg] Clean Water Protection Rule Media Report 10/28/2014

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 28, 2014

## News Coverage

[After Election 2014: Stream and Wetland Protection](#) – Science Mag, 10/28/2014 – It's probably the toughest fight over ditches since World War I. Two federal agencies have proposed a clarification to how much turf they can regulate under the Clean Water Act (CWA), sparking bitter debate.

[Braley, One Week to Go](#) – Iowa Public Radio, 10/28/2014 – Clay Masters: This is Morning Edition on Iowa Public Radio. Good morning, I'm Clay Masters. A week from today voters decide who will be the next U.S. Senator to replace retiring Democrat Tom Harkin.

[Organizations comment on Clean Water Act's definition of "waters of the US"](#) – Water Technology Online, 10/27/2014 – More than 700,000 U.S. citizens have written to support a plan to protect U.S. wetlands and streams that are vulnerable to pollution, and a diverse coalition of [conservation](#) organizations and clean water advocates delivered their comments to [EPA](#) and Army Corps of Engineers, according to a press release.

[EPA's science board backs WOTUS](#) – FeedStuffs, 10/27/2014 – The Environmental Protection Agency's (EPA) water rule passed a crucial test, gaining the approval of

the agency's internal review board. EPA is proposing to expand its jurisdiction to include small rivers and streams that flow into larger sources of water.

[Clean Water Act changes endorsed](#) – Journal Sentinel, 10/25/2014 – One hundred eighty-five sportsmen groups banded together Tuesday and expressed support for modifications to the Clean Water Act. The Environmental Protection Agency and Army Corps of Engineers have proposed a rule to clarify Clean Water Act protections for headwater streams and adjacent wetlands.

## Opinion

[Smith: Pence too hasty in rejecting EPA clean water rules](#) – INDYSTAR, 10/27/2014 – Of all the things to get mired in a narrow political debate, having clean water shouldn't be one of them. One would think that finding ways to protect the most basic necessity of life on Earth would be something we could all agree on.

[Opinion: EPA, Army Corps Think They Walk on Water](#) – Wilmington Biz, 10/27/2014 – What would you do if the U.S. Supreme Court told you that a particular effort you were championing was unconstitutional? Would you try again? How about if it happened twice? Would you try again?

[Letter: EPA needs to stand up to polluters](#) – The Herald-News, 10/27/2014 – On the 42nd anniversary of the Clean Water Act, a new report from Environment Illinois, "Waterways Restored," highlights the success the law has meant for the Apple River – a tributary to the Mississippi – that was threatened by pollution from a factory farm.

## Blogs/Social Media

[GOP senator urges withdrawal of water rule](#) – The Hill (blog), 10/27/2014 – Sen. John Boozman (R-Ark.) urged the Obama administration to withdraw a proposal to establish federal jurisdiction over bodies of water. Boozman argued that the regulation, known as the Waters of the United States (WOTUS) rule, would amount to federal overreach by the Environmental Protection Agency (EPA) and Army Corps of Engineers.

Results for #protectcleanwater

Top / [All](#)

- 1) CleanWaterAction MD [@CleanWater\\_MD](#)  
Be 1 in a MILLION to [#ProtectCleanWater](#) [bit.ly/1oaYn1i](#) [@BlueWaterBmore](#) [@MDLCV](#) [@MdPesticideNet](#)
- 2) 1 Mississippi [@1\\_Mississippi](#)  
Observe tundra swans, ducks, bald eagles and other birds during the great fall migration! [ow.ly/DbI87](#) [#ProtectCleanWater](#)
- 3) Carole Thompson [@Carolefully](#)  
The future of our waterways depends on the action we take: [bit.ly/1qa8YVT](#) [#ProtectCleanWater](#)
- 4) Clean Water Action [@cleanh2oaction](#)  
Glowing water along FL coast highlights pollution from ag runoff, septic systems. [wapo.st/1DjVQUr](#) [#toxicalgae](#) [#ProtectCleanWater](#)

**5) Earthjustice @Earthjustice**

Eerie glow in FL illuminates inadequate [#toxicalgae](#) outbreak response: [.wapo.st/1DjVQUr](https://www.wapo.st/1DjVQUr)  
[@bydarrylfears](#) [@JobyWarrick](#) [#ProtectCleanWater](#)

**Glenn Watkins**

**Program Assistant, Water and Government Affairs Programs**

**Natural Resources Defense Council**

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 10/27/2014  
**Date:** Tuesday, October 28, 2014 9:01:55 AM

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**From:** Watkins, Glenn [<mailto:gwatkins@nrdc.org>]  
**Sent:** Monday, October 27, 2014 1:39 PM  
**To:** Clean Water Working Group  
**Cc:** Mickelson, Rachel  
**Subject:** [clean-water-wg] Clean Water Protection Rule Media Report 10/27/2014

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 27, 2014

## News Coverage

[EPA Chief Seeks Water Industry Support for Controversial Proposal](#) – Water Online, 10/27/2014 – The nation's top environmental regulator stepped out recently to lobby wastewater professionals to support her agency's controversial clean water proposal.

[Clean water groups highlight progress for Apple River, call for more success stories](#) – The Rock River Times, 10/27/2014 – On the heels of the 42nd anniversary of the Clean Water Act, a new report tells the story of how the bedrock environmental law has helped to restore and protect the Apple River, where citizens banded together to protect the river and Apple River Canyon State Park from efforts to construct two factory farms within the river's watershed.

[Tell the feds states do it best](#) – Rapid City Journal, 10/26/2014 – Water is vital to all South Dakotans, especially those working in agriculture. Together with our South Dakota Department of Environment and Natural Resources (DENR), South Dakota farm and ranch families have a long history of managing the water we use, yet the Environmental Protection Agency (EPA) and US Army Corps of Engineers (Corps) seem to think they know better.

[Cleaning up the environment brings economic benefits](#) – Star Tribune, 10/26/2014 – This year, the Minnesota Center for Environmental Advocacy (MCEA), a statewide public interest environmental law firm based in St. Paul, marks its 40th anniversary.

[New clean water rule goes into effect](#) – The Des Moines Register, 10/26/2014 – A new Iowa clean water rule designed to increase inspections of livestock farms and provide stricter enforcement when manure spills pollute waterways is now in effect, after more than a year of hearings and deliberations by government agencies.

[Chambliss, Ag Committee Senators Request Immediate Withdrawal of New Clean Water Act Regulations for Agriculture](#) – Southeast AgNet, 10/24/2014 – U.S. Senator Saxby Chambliss (R-Ga.) yesterday joined fellow Republican members of the Senate Agriculture, Nutrition and Forestry Committee in writing the Environmental Protection Agency (EPA), U.S. Army Corps of Engineers and U.S. Department of Agriculture (USDA) to request immediate withdrawal of the agriculture Interpretive Rule to Waters of the United States (WOTUS).

## **Opinion**

[Our water can't wait](#) – Post-Gazette, 10/26/2014 – If you're lucky, you spent some time in the Laurel Highlands over the summer. Less than an hour from Pittsburgh, this region features steep, forested ridges, deep river valleys and countless small headwater streams.

[Rule critical for Colorado](#) – The Pueblo Chieftain, 10/25/2014 – As a fifth-generation rancher/farmer, business owner and advocate of Colorado's rural economy, I know first-hand the importance of clean, reliable water to our way of life. That's why I believe the 42nd anniversary of the Clean Water Act in October represents an important milestone for Colorado's water resources.

[Wicker: Mississippi is Reaping the benefits of the New Farm Bill](#) – Insurance News Net, 10/26/2014 – The office of Sen. Roger Wicker, R-Miss., issued the following weekly report: During the month of October, scenes of hard-working farmers bringing in the year's harvest are commonplace in Mississippi.

[Cruz: Obama Administration is intentionally misleading Americans on proposed water rule](#) – The Bay Area Citizen, 10/24/2014 – Today, U.S. Senators John Barrasso (R-WY), Ted Cruz (R-TX), Republican Leader Mitch McConnell (R-KY) and Senate Environment and Public Works Committee Ranking Member David Vitter (R-LA) led a group of 25 senators in calling out the Obama Administration for intentionally misleading Americans about the negative impacts of the proposed "Waters of the United States" (WOTUS) rule.

[Washington overreach threat extends to our water](#) – Kearney Hub, 10/24/2014 – For well over a year, I have been discussing my concerns with the administration's attempts to expand federal control over water in Nebraska and all across the country.

## **Blogs/Social Media**

[Steve Southerland makes League of Conservation Voters' "Dirty Dozen" list](#) – Saint

Peters Blog, 10/24/2014 – Republican Congressman Steve Southerland has been added to the “Dirty Dozen” of anti-environmental lawmakers by the [League of Conservation Voters](#).

[Energy and agriculture issues highlight ND ag commissioner race](#) – Agweek, 10/27/2014 – The two candidates in the North Dakota agriculture commissioner’s race have clashed in their different approaches to balancing the conflicts between energy and agriculture.

Results for #protectcleanwater

Top / [All](#)

- 1) **Brian Hires** [@bhires](#)  
Rancher: Clean Water Rule (Waters of the US) critical for Colorado:  
[chieftain.com/opinion/299779](#) ... [#protectcleanwater](#) [@EPAwater](#) [@USDA](#) [@markudall](#)
- 2) **Environment CA** [@EnvCalifornia](#)  
Who’s fighting the clean water rule? Oil & Gas have thousands of miles of pipelines running through wetlands. [#ProtectCleanWater](#)
- 3) **Aviva Glaser** [@aviva\\_g](#)  
Opinion: Hunters, fishermen standing up for our NC streams [ow.ly/DoV0A](#) via [@newsobserver](#) Sportmen work to [#ProtectCleanWater](#)
- 4) **Clean Water Action** [@cleanh2oaction](#)  
[bit.ly/1t75aKj](#) - Help us get to a million comments to [#ProtectCleanWater](#)! - visit [protectcleanwater.org](#)
- 5) **National Wildlife** [@NWF](#)  
7 Videos Inspiring Clean Water Support: [bitly.com/1nECRIL](#) [#protectcleanwater](#)

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**From:** [Siu, Brian](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** Letter to SBA on EPA Water Rule  
**Date:** Friday, October 24, 2014 4:37:44 PM  
**Attachments:** [SBA Waters.pdf](#)

---

Hi Ken,

Attached, please find a letter on EPA's clean water rule that we agreed to transmit on behalf of two California based associations. The letter is addressed to SBA Administrator Contreras-Sweet and Chief Council Sargeant. These businesses and their members depend on clean water and respectfully disagree with SBA's recommendations.

Thanks very much,

Brian Siu  
Senior Legislative Advocate  
Natural Resources Defense Council  
Phone: 202.289.2417  
Fax: 202.289.1060



**From:** [Dalal Aboulhosn](#)  
**To:** [Feldt, Lisa](#); [Kopocis, Ken](#); [Stanislaus, Mathy](#)  
**Subject:** Fwd: NCEL LEtter on the ELG and Coal Ash Rule  
**Date:** Friday, October 24, 2014 2:04:03 PM  
**Attachments:** [Final Coal Ash NCEL Sign-on Letter.pdf](#)

---

Wanted to make sure you saw this letter by the NCEL calling on strong coal ash and ELG rules. You can find the link to the letter at the end of the press release or attached to this message.

Thank you and have a nice weekend.

*Dalal Anne Aboulhosn*  
*Senior Washington Representative*  
*Sierra Club*  
*202.675.6278*  
[dalal.aboulhosn@sierraclub.org](mailto:dalal.aboulhosn@sierraclub.org)

# STATES OFFICIALS IMPLORE EPA TO PROTECT LOCAL COMMUNITIES FROM DANGERS OF TOXIC WATER, COAL ASH

Letter from 155 state reps sent to EPA ahead of  
deadline to finalize coal ash, toxic water standards

Thursday, October 23, 2014

**Contact:**

Brian Willis, [\(202\) 675-2386](tel:(202)675-2386), [Brian.Willis@sierraclub.org](mailto:Brian.Willis@sierraclub.org)

Washington, D.C.— State representatives from the National Caucus of Environmental Legislators this week submitted a sign-on letter calling on the U.S. Environmental Protection Agency's (EPA) to swiftly finalize strong coal ash and toxic water pollution standards for coal-burning power plants. The letter comes just eight weeks before the agency's December 19 deadline to finalize a rule on coal ash standards.

Delivered to EPA Administrator Gina McCarthy, the letter signed by 155 state representatives notes that dangerous waste from burning leaches into drinking water

and pollutes the air of communities near toxic dump sites because there are no federal safeguards for disposal. The letter also notes that EPA itself has determined that coal-fired power plants are responsible for at least 50 to 60 percent of the toxic water pollutants discharged into U.S. waters. Yet, at present, four out of five coal plants in the U.S. have no limits on the amount of toxics they are allowed to dump into our water. Many of these toxic pollutants pose serious health and environmental damage even in very low concentrations, which is why, the signatories argue, strong standards are essential to protect our communities, drinking water, and wildlife.

“We urge the EPA to protect our waterways from toxic coal pollution by adopting strong, federally enforceable safeguards for coal ash disposal and reuse under the Resource Conservation and Recovery Act (RCRA) and for water pollution discharges from coal plants under the Clean Water Act quickly,” stated the letter. “Without strong federal standards to safeguard our waterways, coal-burning power plants will keep sending toxic sludge into rivers and streams, which provide recreation, habitat to fish and wildlife, and drinking water sources.”

“Right now, the EPA has the opportunity to meet its responsibility to the American people and put into place actual, strong measures that will prevent coal ash disasters that have been plaguing American communities for far too long,” said Dalal Aboulhosn, Senior Washington Representative with the Sierra Club.

Signatories include many distinguished elected officials across the country, including several from North Carolina who have dealt with the lack of federal safeguards firsthand when a burst stormwater pipe underneath an unlined coal ash pit dumped 140,000 tons of coal ash and toxic wastewater into the Dan River earlier this year.

“Our experience in the Southeast, including the Dan River disaster, has shown that communities cannot count on state agencies and state law alone to protect their clean water nationwide. Our communities and our rivers need strong national safeguards to protect them from coal ash pollution and coal ash catastrophes,” said Frank Holleman, Senior Attorney with the Southern Environmental Law Center.

“Representatives are asking for strong regulations because they know these rules will protect the health and economic wellbeing of their constituents,” said Lisa Evans, senior administrative counsel at Earthjustice. “Coal ash pollution places a heavy burden on local communities across the nation, but help is on the way.”

“EPA needs to end the “free pass to pollute” that power plants have gotten for the past thirty years. Power plants have gotten special treatment that allows them to dump billions of pounds of toxic chemicals into our nation’s waters, including rivers and streams that are sources of drinking water. This special treatment has come at a huge cost to our nation’s waters and to our health,” said Jennifer Peters, Clean Water’s National Water Campaigns Coordinator.

To read the full letter, please [click here](#).



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 10/20/2014  
**Date:** Monday, October 20, 2014 12:54:49 PM

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FYI

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 20, 2014

## News Coverage

[EPA water proposal is stirring up Senate race](#) – Norfolk Daily News, 10/19/2014 – A proposed federal rule is muddying the waters in Nebraska's U.S. Senate race.

[Washington groups spar over Clean Water Act's parameters](#) – The Columbian, 10/18/2014 – The nation's primary law to keep its waters clean has a birthday today — but any celebration will have to compete with a contentious battle over what the law actually means.

[Iowa leaders issue critical statement on EPA's WOTUS rule](#) – AgProfessional, 10/18/2014 – Gov. Terry E. Branstad, Lt. Gov. Kim Reynolds and Secretary Bill Northey, along with relevant state leaders, sent a letter and submitted comments to U.S. Environmental Protection Agency Administrator Gina McCarthy and Army for Civil Works Assistant Secretary Jo-Ellen Darcy on the proposed "Waters of the United States" federal rule under the Clean Water Act (CWA).

## Opinion

[Supreme Court denies water flows downhill; EPA proves otherwise](#) – The Fayette Tribune, 10/20/2014 – Unbelievably, common sense didn't satisfy the Court. Instead, EPA has had to spend much taxpayer money to prove the connectivity between headwater streams and the bloodstreams of fish, wildlife, and people.

[Toomy is deceptive about what the EPA clean water rule will do](#) – PennLive letters, 10/20/2014 – I watched with dismay as Sen. Toomey spoke at a recent press conference in Harrisburg regarding the EPA's Clean Water Act (CWA) proposal. Deception seems to be his agenda.

[Jeni Burns: Everybody I know wants clean drinking water](#) – WV Gazette, 10/19/2014 – Ten out of 10 people that I randomly surveyed on Charleston's West Side said they want clean drinking water no matter what.

[Point of View: Bill before Congress would hurt wetlands, tributaries](#) – Palm Beach Post, 10/19/2014 – Rather than protecting the public first, some Florida politicians are catering to big business, agriculture and Washington lobbyists.

[Drew Peterzell: Making the Clean Water Act work](#) – Steamboat Today, 10/18/2014 – Farmers and ranchers are the original conservationists in the West, and they're also a key ally to conservation groups, such as Trout Unlimited, working to keep our streams and fisheries healthy.

[Water protection in Miss. needs to be clarified: Letter](#) – The Clarion-Ledger, 10/18/2014 – A representative of the U.S. Chamber of Commerce was in Jackson recently sowing fear of the 2014 Clean Water Rule to an agriculture and industry audience.

## **Blogs/Social Media**

[EPA Draft Ruling Could Mean Significant Changes to How Stormwater Systems are Categorized](#) – Public CEO, 10/20/2014 – The last thing that public agency leaders want to hear is that looming changes may make operating and building new public infrastructure more challenging and expensive.

[Alexander Slams EPA for 'Regulating Mud Puddles' While Defending His Own Votes for Coal Regulation](#) – Nashville Public Radio, 10/20/2014 – Tennessee Senator Lamar Alexander worked the words "regulating mud puddles" into nearly every answer at a candidate forum hosted by the Farm Bureau.

[Happy Birthday to the Clean Water Act](#) – Clean Water Action Blog, 10/19/2014 – The Clean Water Act turns forty-two this weekend! When Congress overwhelmingly passed the landmark Clean Water Act in 1972, we set an incredibly ambitious goal: eliminate all water pollution.

Results for #protectcleanwater

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1) **Clean Water Action** [@cleanh2oaction](#)

Kids don't just get it - they experience the need for clean water! [shar.es/1mDWD4](#)  
[#protectcleanwater](#)

2) **Frank Szollosi** [@frankszollosi](#)

Thanks [@RepMarcyKaptur](#)! Cleveland leaders celebrate 42 for Clean Water Act on Cuyahoga [#protectcleanwater](#)

3) **River Network** [@rivernetwork](#)

42 yrs ago Congress overrode Nixon's veto & the [#cleanwateract](#) was born!

[.goo.gl/NTq4Rm](https://goo.gl/NTq4Rm) [#protectcleanwater](#)

4) **Merritt Frey @MerrittFrey**

On this day in '72, Pres Nixon vetoed the [#cleanwateract](#). Luckily, Congress overrode that veto. [#protectcleanwater](#)

5) **National Wildlife @NWF**

It's the 42nd Anniversary of the Clean Water Act! 7 videos inspiring us to

[#protectcleanwater](#): [blog.nwf.org/2014/10/7-videos](http://blog.nwf.org/2014/10/7-videos)...

**Glenn Watkins**

**Program Assistant, Water and Government Affairs Programs**

**Natural Resources Defense Council**

1152 15<sup>th</sup> Street NW, Suite 300

Washington, DC 20005

202-289-2369

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Press Hits 10/15/14 Protect H2O Rule  
**Date:** Wednesday, October 15, 2014 10:47:15 PM

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 15, 2014

## News Coverage

### EPA Rule Change Could Help Florida's Disappearing Wetlands – NPR SW Florida – 10/14/14 -

Environmental experts met Tuesday in Naples to discuss massive wetland loss in the state and looming federal policy changes that could help...

### DesJarlais criticizes attempt to redefine *Clean Water Act* - The Daily News

Journal-8 hours ago - DesJarlais explained the EPA is seeking to expand the *Clean Water Act* of 1972 by issuing a rule clarification. "But that rule clarification is ...

### Putnam Legislature Passes Measure Opposing Stronger *Clean ...* -

Philipstown.info-3 hours ago - Scuccimarra sought "to keep the *Clean Water Act*" strong. "The proposed rule will give *Clean Water Act* protection to about 20 million acres of ...

### Nebraska should worry about proposed *Clean Water Act* change ... -

Fremont Tribune - 5 hours ago - Normal farming and ranching — including planting, harvesting, and moving livestock — have always been exempt from *Clean Water Act* ...

[Also in Lincoln Journal Star](#)

### Clean Water Act in MI: Keeping the Great Lakes Great - Public News Service, MI –

10/15/14 - LANSING, Mich. - With more freshwater coastline than any state and nearly 1,200 square miles of inland waters, water is critical to Michigan. That's why one group says this week's anniversary of the Clean Water Act is an opportunity to reflect on and protect that heritage.

## **Farmers meet with EPA to discuss proposal for changes in Clean Water Act**

UpNorthLive.com - 11 hours ago - The Environmental Protection Agency (EPA) was in Reed City at the Sheriff's Posse Grounds to talk about the Clean Water Act, and what it could mean in Michigan. Both sides of the coin spoke out passionately with the hopes of finding some sort of middle ...

## **Legislators voice opposition to proposed EPA water rule**

Casper Star-Tribune Online - 1 hour ago - EPA officials say the rule was designed to clearly define the types of water bodies protected by federal regulation under the Clean Water Act. Federal officials say the rule is not an attempt to expand the jurisdiction of waters under the rule, but state lawmakers ...

## **Local Farmers Not Pleased with EPA Water Proposal**

MyWabashValley - 17 hours ago - Local Farmers Not Pleased with EPA Water Proposal. By Associated Press. 10/14/2014 06:24 PM. Local farmers are concerned with what the EPA is proposing under the Clean Water Act. The American Farm Bureau Federation is eager to shut down ...

## **Common Sense Releases WOTUS Analysis**

WNAX - 10/15/14 - Common Sense, Nebraska, the Coalition fighting EPA's proposed Waters of the U.S. rule unveiled their analysis of how the rule would negatively impact agriculture. The analysis was authored by former Nebraska of Environmental Quality Director ...

## **Proposed Rule Sparks Debate Amongst Northern Michigan Farmers**

9&10 News - 9 hours ago- The rule in question comes from the Clean Water Act, a policy that focuses on keeping the water pollutant-free. After questions about the rule started coming from farmers, the US Supreme Court said it needed to be easier to understand. "It's really defining ...

## **Michigan farmers to EPA: 'Ditch the rule!'**

Farmers Advance - 1 hour ago - More than 3,100 postcards signed by MFB members across the state communicated one, unambiguous message: the EPA's move to broaden its definition of "waters of the United States" in the Clean Water Act is a regulatory overreach threatening the ...

## **Opinion**



## [Protect clean water](#) - Bennington Banner, VT – 10/14/14 - Two

decades ago, Boston Harbor was widely considered the dirtiest harbor in America. Sewage and pollution from local industry made it unsafe to fish or swim in the harbor or

the Charles River. But the Clean Water Act, passed in 1972 did ■ ■

## [Loopholes in the Clean Water Act](#) – Minnesota

Daily – 10/15/14 - Minnesota is the land of 10,000 lakes, and as summer has reached its end, I have been reflecting on the importance of Minnesota's lakes and rivers. They are such a valuable resource for both drinking water and recreation, and that is why...

## [Waters Of The US Rule Deserves Public Attention](#) -

Columbia Daily Tribune - 10/14/14 - One of the biggest complaints of all stakeholders over time has been inconsistency in government regulations. In response to confusion over the scope of the law, the EPA drafted the Clean Water Act Rule, also known as the Waters of the U.S. Rule, to clarify ...

## [Tom Feeney: EPA rules could batter Florida's economy](#) -

Tallahassee.com - 14 hours ago - The Associated Industries of Florida's Florida H2O Coalition urges caution with the EPA defining what waters will be covered by the Clean Water Act, as the scope of the proposed changes and the legal reform in terms of permitting is pretty drastic. We believe ..

[Clean water drives Colorado tourism and business](#) - Pueblo Chieftain-Oct 14, 2014 - I support the efforts to clarify the *Clean Water Act* because I've seen firsthand that healthy headwaters and streams — and our outdoor way of ...

## [Blogs/Social Media](#) –

### [Senator from Louisiana Outraged Over Pebble Mine Denial and](#)

[Chesapeake Bay Cleanup](#) — fieldandstream.com – 10/8/14 - If you Google “David Vitter and sportsmen,” you get almost 400,000 hits, most of them touting the Louisiana GOP senator's support for hunters and anglers. He seldom fails to mention he represents “The Sportsman's Paradise”—one of Louisiana's official mottos.

Clean Water Action Blogs - [True Facts About the Clean Water Act, Part 1](#) & [The Last Oktoberfest?](#)

Our friends at River Network have put together some great Happy Birthday cards for the CWA. Anyone is welcome to use them:

<http://www.rivernetwork.org/cwabirthdaymemes>

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Clean Water Action  
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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Press Hits 10/8/14  
**Date:** Thursday, October 09, 2014 10:24:38 AM

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

October 8, 2014

## News Coverage

### EPA extends water rule comment period Capital Press - 1 hour ago-

The Environmental Protection Agency has extended the comment period on a proposed rule that it says will clarify its authority under the Clean Water Act. The comment period is now open until Oct. 20. The rule, proposed in April by the EPA and the U.S. Army ...

### EPA rule does not target ditches Quad City Times - 2 hours ago- Under the

Clean Water Act, EPA and the U.S. Army Corps of Engineers released a draft proposal in March that strengthens protection for clean water. Science shows us what kinds of streams and wetlands impact water downstream – so our proposal says that ..

### EPA proposing rule to protect rain-dependent streams under federal law Observer-Reporter - 7 hours ago - While these streams provide

drinking water, recreation and habitats for aquatic life, they are not clearly protected under the Clean Water Act of 1972, according to the federal Environmental Protection Agency. The EPA and U.S. Army Corps of Engineers are ...

### Proposed EPA rule represents regulatory overreach, expert says Watchdog.org - 5 hours ago - To its many foes, a rule proposed by the

Environmental Protection Agency and U.S. Army Corps of Engineers that would redefine the scope of waters protected under the Clean Water Act is a real son of a ditch. William Kovacs, the senior vice president of ...

## Opinion

### [Protect our waters from unchecked pollution](#) -Fairfaxtimes.com -

Oct 7, 2014 -In response to the Sept. 26, 2014 piece “All waters are connected,” this letter highlights that the Clean Water Act's 42nd Anniversary is upon us this Oct. 18. It is a time to reflect on the decisions of our decision makers concerning Virginia's waters. As the article ...

### [My voice: EPA goes too far with water rule](#) Sioux Falls Argus

Leader - 17 hours ago - When Congress passed the Clean Water Act in 1972, it specifically stated that only navigable waters are under federal jurisdiction. But now, EPA and U.S. Army Corps of Engineers have taken it upon themselves to expand the Clean Water Act to cover every ...

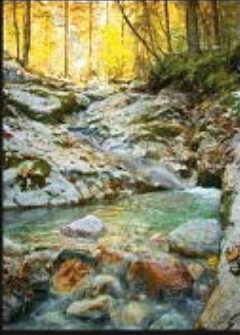
## Blogs/Social Media –

### [Miss. Groups Oppose Expansion of EPA's Clean Water Act](#)

[Hoeven threatens to defund EPA](#) The Hill (blog) - 4 hours ago- “The Waters of the U.S. rule will heavily burden not just farmers and ranchers, but also the energy industry, construction industry and many other industry sectors,” Hoeven said. “I will continue my efforts to either de-authorize the rule or defund it as a member ...

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**#ProtectCleanWater**



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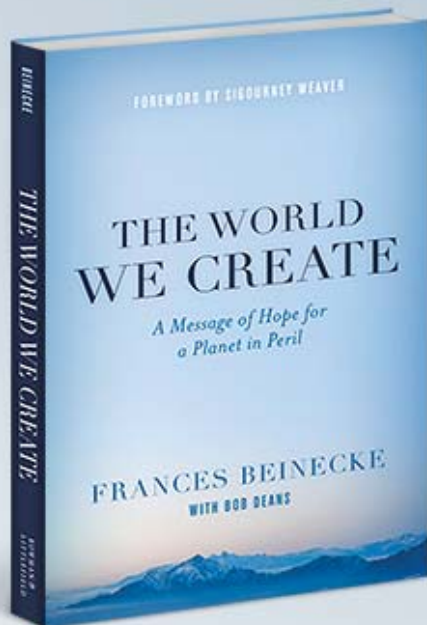


CLEAN WATER ACTION • CLEAN WATER FUND

From: [Heyd, Elizabeth](#)  
To: [Heyd, Elizabeth](#)  
Subject: from NRDC: You're invited to an evening with Frances Beinecke, NRDC President  
Date: Monday, October 06, 2014 3:45:49 PM  
Attachments: [image001.png](#)

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## JOIN NRDC PRESIDENT FRANCES BEINECKE TO CELEBRATE THE LAUNCH OF HER NEW BOOK



OPENING REMARKS BY  
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RANKING MEMBER AND FORMER CHAIRMAN  
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October 15, 2014  
5:30 – 7:30 P.M.

National Press Club  
529 14<sup>TH</sup> STREET NW  
WASHINGTON, DC 20045

*“Treating the natural world as the single most important resource we share, because that’s exactly what it is; caring for it as though our very lives depend on it, because they do. That is not yet the world we live in. It is the world we must create. Here’s how we begin.”*

PLEASE RSVP TO ELIZABETH HEYD  
EHEYD@NRDC.ORG | 202-289-2424





**From:** [Devine, Jon](#)  
**To:** [Ganesan, Arvin](#); [Kopocis, Ken](#)  
**Subject:** RE: Comment Letter- Definition of "Waters of the United States" Under the Clean Water Act  
**Date:** Wednesday, October 01, 2014 5:45:46 PM

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Thanks for the quick response. I understand that this is not uncommon, but it'd be helpful to get a sense of whether EPA and the Corps may push back on any incorrect statements of fact or law as part of the process going forward. Would you have a few minutes around 5:00 Friday?

Jon Devine

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**From:** Ganesan, Arvin [<mailto:Ganesan.Arvin@epa.gov>]  
**Sent:** Wednesday, October 01, 2014 2:54 PM  
**To:** Devine, Jon; Kopocis, Ken  
**Subject:** RE: Comment Letter- Definition of "Waters of the United States" Under the Clean Water Act

We can discuss, but the office of advocacy routinely files comments like this.

---

**From:** Devine, Jon [<mailto:jdevine@nrdc.org>]  
**Sent:** Wednesday, October 01, 2014 2:53 PM  
**To:** Kopocis, Ken; Ganesan, Arvin  
**Subject:** FW: Comment Letter- Definition of "Waters of the United States" Under the Clean Water Act

This is very concerning. Do you folks have any availability in the coming couple days to discuss?

Jon Devine

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**From:** Dennis, Kia [<mailto:Kia.Dennis@sba.gov>]  
**Sent:** Wednesday, October 01, 2014 2:17 PM  
**To:** Dennis, Kia  
**Subject:** Comment Letter- Definition of "Waters of the United States" Under the Clean Water Act

SBA Office of Advocacy banner 2





# Definition of “Waters of the United States” Under the Clean Water Act

## Advocacy Comments on the EPA’s and Corp’s “Definition of Waters of the United States under the Clean Water Act”

On October 1, 2014 the Office of Advocacy (Advocacy) filed public comments with the Army Corps of Engineers (the Corps) and the Environmental Protection Agency (EPA, together the Agencies) in response to the proposed rule “Definition of Waters of the United States under the Clean Water Act”.

- On April 21, 2014 the Agencies issued a proposed rule soliciting comments on the proposed definition of the term “waters of the United States” under the Clean Water Act.
- Advocacy’s letter states that the Agencies improperly certified the rule. Advocacy believes that the rule will have direct effects on small businesses and that these effects will have a significant economic impact on a substantial number of small businesses.
- Advocacy believes EPA should have conducted a Small Business Advocacy Review Panel prior to releasing the rule for comment.
- Advocacy recommends that the Agencies withdraw the proposed rule and conduct a panel prior to re-proposing the rule.

The full comment letter can be found [here](#).

For more information, visit Advocacy’s website at <http://www.sba.gov/advocacy> or contact Kia Dennis at 202-205-6936.

---

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**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#); [Ganesan, Arvin](#)  
**Subject:** FW: Comment Letter- Definition of "Waters of the United States" Under the Clean Water Act  
**Date:** Wednesday, October 01, 2014 2:53:37 PM

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This is very concerning. Do you folks have any availability in the coming couple days to discuss?

Jon Devine

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**From:** Dennis, Kia [<mailto:Kia.Dennis@sba.gov>]  
**Sent:** Wednesday, October 01, 2014 2:17 PM  
**To:** Dennis, Kia  
**Subject:** Comment Letter- Definition of "Waters of the United States" Under the Clean Water Act

SBA Office of Advocacy banner 2



## Definition of "Waters of the United States" Under the Clean Water Act

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 9.30.2014  
**Date:** Wednesday, October 01, 2014 10:16:53 AM

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**From:** Watkins, Glenn [<mailto:gwatkins@nrdc.org>]  
**Sent:** Tuesday, September 30, 2014 12:23 PM  
**To:** Clean Water Working Group  
**Cc:** Mickelson, Rachel  
**Subject:** [clean-water-wg] Clean Water Protection Rule Media Report 9.30.2014

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

September 30, 2014

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## News Coverage

[More Waters May Deserve Federal Protection, Study Suggests](#) – Newswise, 9/30/2014 – Federal environmental law can be tricky business. Defining which bodies of water are protected by the federal Clean Water Act can impact the permits required for someone developing their land, especially when wetlands could be affected.

[EPA chief Gina McCarthy asks water professionals to back new wetland rules](#) - NOLA Times-Picayune, 9/29/2014 – [Environmental Protection Agency](#) Administrator [Gina McCarthy](#) came to New Orleans on Monday to ask 18,000 water and wastewater professionals for help in supporting the agency's controversial "[Waters of the U.S.](#)" rule.

[What Retailers Need to Know About the Clean Water Act](#) – Today's Garden Center, 9/29/2014 – The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers have proposed a rule to expand the definition of "waters of the U.S." in the Clean Water Act.

[Farmers worried about an EPA plan to redefine 'water'](#) – The Legislative Gazette, 9/29/2014 – Almost three dozen counties and local municipalities across the state have passed resolutions asking the Environmental Protection Agency to withdraw its proposal to expand the definition of "waters of the United States" under the Clean Water Act.

[EPA, cattle advocates butt heads on proposed Waters of the US rule](#) – Prairie Business, 9/29/2014 – There are definitely two sides when it comes to the controversial Waters of the U.S. rule change proposed by the Environmental Protection Agency.

[EPA chief slams critics for 'misinformation'](#) – The Hill, 9/29/2014 - Critics of the Environmental Protection Agency's water jurisdiction rule are spreading misinformation, the agency's chief said Monday.

[Regulators urged to update Clean Water Act standards](#) – New Haven Register, 9/29/2014 – Environmental groups and two members of Connecticut's legislative delegation to Washington want federal regulators to clarify and update standards for protecting streams and wetlands under the U.S. Clean Water Act.

[EPA's proposed water rules examples of democracy's messiness](#) – AgWeek, 9/29/2014 – An example of democracy's messiness today is the Environmental Protection Agency's proposed Waters of the U.S. rule, or WOTUS.

[EPA administrator in Hartford to discuss Clean Water Act](#) – Hartford Business, 9/29/2014 – A controversial proposed change to how the U.S. Environmental Protection Agency interprets and enforces the 1972 Clean Water Act will be the subject of a visit to Hartford this afternoon by the agency's New England administrator, officials said.

[PA leader to discuss protecting streams, wetlands](#) – WTNH, 9/28/2014 – The U.S. Environmental Protection Agency's regional administrator for New England will be in Hartford to discuss the federal agency's proposed rule that clarifies protection of streams and wetlands under the Clean Water Act.

## Opinion

[Your Turn: Don't amend the Clean Water Act](#) – SCTimes, 9/30/2014 – More than 115 million Americans get their drinking water from rivers, lakes and reservoirs. The White House and the Environmental Protection Agency now propose a...

[Feds should rethink the clean-water rules](#) – The Des Moines Register, 9/29/2014 - Earlier this year the U.S. Environmental Protection Agency and the Army Corps of Engineers proposed sweeping changes to the federal Clean Water Act regulations that promise to have a significant impact on development in Iowa.

[Letter: Support revisions to Clean Water Act](#) – Daily Tarheel, 9/29/2014 – The

date is getting ever closer, the date when the U.S. Environmental Protection Agency decides to make progress for clean water a decade in the making or push it further from North Carolina's grasp.

[Last-ditch effort](#) – My Journal Courier, 9/28/2014 – More than 40 years ago, the United States passed the Clean Water Act, reducing water pollution, restoring marine habitats for wildlife, improving the quality of drinking water, improving health and creating safer places to recreation.

[Texas View: This land is our land](#), OA Online, 9/28/2014, Say in 10 years, you're driving northwest from Houston...

## **Blogs/Social Media**

[Clean Water Drives Economic Growth](#) – Huffington Post (blog), 9/29/2014 – Two decades ago, my hometown waterway of Boston Harbor was known as the dirtiest harbor in America. Raw sewage and industrial pollution made fishing and swimming risky at best, and impossible at worst.

[Proposal to Protect Clean Water](#) – EPA, 9/29/2014 – Clean water is important - for drinking, swimming, and fishing.

### **Top Results for #protectcleanwater**

Top / [All](#)

1. [NWF Water @NWFwater](#)  
If you're going to swim in water, I suggest clean water [#ProtectCleanWater](#)
2. [Clean Water Action @cleanh2oaction](#)  
It's Clean Water Week!!! Watch this new video and retweet in support of clean water!  
[thndr.it/1qCgaOm](#) [@EPAwater](#) [#protectcleanwater](#)
3. [PrairieRivers @PrairieRivers](#)  
[@GinaEPA](#) [#ProtectCleanWater](#) It's also the right to imagine a better world around the corner & then go explore it [youtube.com/watch?v=ma3uOf\\_\\_\\_\\_\\_...](#)
4. [Clean Water Action @cleanh2oaction](#)  
Enough said, drip drop and we won't stop! [protectcleanwater.org](#) [#protectcleanwater](#)  
[@messiahcollege](#)
5. [EnvironmentMinnesota @EnvironmentMN](#)  
EPA's McCarthy: Critics of clean water rule are wrong. [#WOTUS](#) is essential to  
[#protectcleanwater](#) [thehill.com/policy/energy-\\_\\_\\_\\_\\_...](#)

**Glenn Watkins**

**Program Assistant, Water and Government Affairs Programs**

**Natural Resources Defense Council**

1152 15<sup>th</sup> Street NW, Suite 300

Washington, DC 20005

202-289-2369

## Document 38

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** FW: More Info on the Clean Water Proposal  
**Date:** Tuesday, September 30, 2014 9:42:28 AM

---

Ken,

Thank you for this helpful summary and for all of the work that EPA staff are clearly doing on this rule.

I had a quick question, and I'd really appreciate it if you could help me find the right person at EPA to help me. I've often seen it reported that 2/3 of waters today meet standard or are safe, as compared to only 1/3 prior to the Act. But when I look at the most recent data from state assessments (<http://www.epa.gov/waters/ir/>; click on "Search" to get a report of the most current data available nationwide), it indicates that 51% of assessed river and stream miles, 67% of assessed acres of lakes, reservoirs and ponds, and 72% of assessed bays and estuaries do not meet state standards. I wonder if there perhaps is some kind of upward bias in the waters that states assess, or if perhaps am I misunderstanding the data in some other way.

Thank you again.

Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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---

**From:** Penman, Crystal [<mailto:Penman.Crystal@epa.gov>] **On Behalf Of** Kopocis, Ken  
**Sent:** Monday, September 29, 2014 3:08 PM  
**Subject:** More Info on the Clean Water Proposal

Hello,

As you know, EPA and the U.S. Army Corps of Engineers have proposed a rule to strengthen protection for clean water that is vital to our health, our communities, and our economy.

I want to share a new video that outlines the importance of clean water and our proposal to protect it. [Watch the video.](#)

I also want to share an op-ed by EPA Administrator McCarthy that appeared in the Huffington Post. [Read the op-ed.](#)

Additionally, Administrator McCarthy delivered the keynote address at WEFTEC (the Water Environment Federation Technical Exhibition and Conference), where she focused on why the proposal is so vital to protecting our water resources, communities, and economy. [Read her remarks.](#)

As always, information about the proposal to protect clean water can be found on our main [webpage](#).

Thank you.

Ken J. Kopocis  
Deputy Assistant Administrator  
U. S. Environmental Protection Agency  
Office of Water



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Press Hits Sept. 25, 2014  
**Date:** Friday, September 26, 2014 9:00:21 AM

---

FYI.

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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**From:** [mkelly@cleanwater.org](mailto:mkelly@cleanwater.org) [mailto:[mkelly@cleanwater.org](mailto:mkelly@cleanwater.org)]

**Sent:** Thursday, September 25, 2014 5:58 PM

**To:** Clean Water Working Group

**Subject:** [clean-water-wg] FW: Press Hits Sept. 25, 2014

-----Original Message-----

From: "Phil Dimotsis" <[pdimotsis@cleanwater.org](mailto:pdimotsis@cleanwater.org)>

Sent: Thursday, September 25, 2014 2:57pm

To: "Michael Kelly" <[mkelly@cleanwater.org](mailto:mkelly@cleanwater.org)>

Subject: Press Hits Sept. 25, 2014

September, 25, 2014

## **News Coverage**

**[Confusion Fueling Oklahoma Outcry Over EPA's 'Waters of the ...](#)** - Statelmpact Oklahoma-9 hours ago - The so-called '*Waters of the United States*' designation is the federal government's attempt to define which bodies of water qualify for protection ...

**[The EPA Wants to Define Waters Scientifically. Farmers Are Freaked ...](#)** Slate Magazine - Sep 11, 2014 - In April, the EPA proposed changes to how it will define "*waters of the United States*" in its rules. Howls of protest have followed, particularly ..

## **Opinion**

**TAURO: *Clean Water Act* needs clarity** -Asbury Park Press-7 minutes ago - If you were asked to define what constitutes *clean water* at the Jersey Shore, you might say an ocean free of garbage and medical waste, and a ...

**EPA: We can have clean water and not harm farming** – Des Moines Register – 9/24/14 - When Congress passed the Clean Water Act in 1972, it didn't just defend the mighty Mississippi or Missouri rivers from pollution. It also protected our smaller streams and wetlands that flow into rivers like the Des Moines, Cedar and Raccoon in Iowa

## **Blogs/Social Media –**

**InvestigateMidwest @IMidwest** Sep 18

Some **#DitchTheRule**, while others **#DitchTheMyth**. Overall, **@EPA** Waters of the U.S. rule has nearly 6,000 comments: <http://bit.ly/1o77r2l>

**Chris Clayton @ChrisClaytonDTN** Sep 19

Point, Counterpoint on EPA's Proposed Waters of the U.S. Rule. **#WOTUS**  
**#DitchtheRule** **#DitchtheMyth** <http://dld.bz/dx45s>

**Dalal Aboulhosn @DalalDC** Sep 19

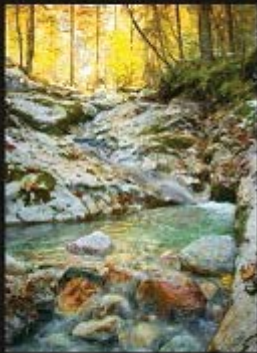
Farm Bureau and big ag misrepresenting EPA water rule **#ProtectCleanWater**  
**#DitchTheMyth** <http://www.farmanddairy.com/columns/farm-bureau-big-ag-misrepresenting-epa-water-rule/214162.html> ...

**AmerSustBsnsCouncil @ASBCouncil** Sep 15

EPA waterway proposal endorsed by Haw River monitor | The Times News  
<http://ow.ly/BvzzW> **#USWaters** **#cleanwater**

Phil Dimotsis  
National Program Assistant  
Clean Water Action  
1444 Eye St. NW Suite 400  
Washington, DC 20005  
Office: 202-895-0420 ext.104  
Cell: 540-290-9392

# #ProtectCleanWater



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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report - September 23, 2014  
**Date:** Tuesday, September 23, 2014 12:46:45 PM

---

FYI.

Jon Devine

Senior Attorney, Water Program

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**From:** Watkins, Glenn [<mailto:gwatkins@nrdc.org>]  
**Sent:** Tuesday, September 23, 2014 12:41 PM  
**To:** Clean Water Working Group  
**Cc:** Mickelson, Rachel  
**Subject:** [clean-water-wg] Clean Water Protection Rule Media Report - September 23, 2014

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

September 23, 2014

## News Coverage

**[Report: EPA Proposal to Expand Clean Water Protection is Scientifically Sound](#)** – Think Progress, 9/23/2014 – A controversial proposal to expand the Environmental Protection Agency's authority over United States waters is based on scientifically sound evidence that pollution in streams and wetlands can have a big impact on larger, downstream bodies of water, according to a [draft report](#) released by the EPA's independent Science Advisory Board (SAB) last week.

**[National Farmers Union comments on water rule](#)** – Cattle Network, 9/23/2014 – National Farmers Union (NFU) President Roger Johnson today submitted comments to the U.S. Environmental Protection Agency (EPA) on its proposed rule addressing the "Waters of the United States (WOTUS) Definitions Under the Clean Water Act."

**[Proposed EPA Water Rules Have Farmers Worried](#)** – Kansas City Infonline, 9/23/2014 – Farmers are wondering if proposed environmental water guidelines could complicate their work and raise the price of food for consumers.

**[Home builders praise Congress for reining in EPA](#)** – Pleasanton Weekly, 9/23/2014 – Kevin Kelly, chairman of the National Association of Home Builders and a home builder and developer from Wilmington, Del., has commended members of Congress

Tuesday for blocking a bill that would have given EPA sweeping controls over "the waters of the U.S."

[EPA: Regional chief keeps his cool as tempers flare in farm country](#) – E&E Greenwire News, 9/22/2014 – U.S. EPA's Region 7 headquarters in Lenexa, Kan., has all you'd expect in a modern suburban office building: certified sustainable construction, an open floor plan with few doors and natural light streaming through the windows.

[Clean water proposal aims to help farmers](#) – Republican-Eagle, 9/22/2014 – When Congress passed the Clean Water Act in 1972, it didn't just defend the mighty Mississippi or the Great Lakes; it also protected smaller streams and wetlands from pollution. The law recognized that to have healthy communities downstream, we need healthy headwaters upstream.

[EPA Rule Pits Brewers against Farmers](#) – Environmental Leader, 9/22/2014 – A group of small craft beer brewers, including [Sierra Nevada](#) and [New Belgium](#), are actively [supporting the EPA's proposed Waters of the US rule](#), arguing it will help ensure that they have [clean water](#) for their products, while farmers who supply beer ingredients say the rule has [the potential to massively cut production on their lands](#), according to The Hill.

## Opinion

[Letter: Protect Streams](#) – The Courier-Journal, 9/22/2014 – In Kentucky, we are blessed with lots of freshwater. But a lot of that freshwater is at risk. The Clean Water Act, intended to protect our waterways from pollution, is under attack from industry groups who desire to pollute, cover or destroy critical waterways.

[Collins cast wrong vote on clean water legislation](#) – Lockport Union-Sun & Journal, 9/22/2014 – It has been brought to my attention that U.S. Rep. Chris Collins voted in favor of a House-passed bill that would prohibit the EPA and Army Corps of Engineers from finalizing an expansion of the federal water pollution law.

[Clean Water goal contrasts Braley, Ernst](#) – The Des Moines Register, 9/21/2014 – Regarding ["Proposal on Waterway Oversight Stirs Argument"](#) (Sept. 18): The proposed clarification of the Clean Water Act provides a clear contrast between the two Senate candidates in their approach to problem solving.

## Blogs/Social Media

[End the Algae Assault: Great Lakes Mayors Should Push for Clean Power Plan and Clean Water Protection Rule](#) – NRDC blog, 9/22/2014 – The nation was greeted last month with the distressing news that nearly a half-million Americans were [robbed of access to drinking water by toxic algae blooms near Toledo](#).

Results for #protectcleanwater

Top / [All](#)

- 1) [Jan Goldman-Carter @JGoldmanCarter](#)  
[#DitchTheMyth](#) and [#ProtectCleanWater](#) -- EPA: We can have clean water and not harm

- farming [dmreg.co/1sdPPZx](http://dmreg.co/1sdPPZx) via [@DMRegister](https://twitter.com/DMRegister)
- 2) [Janice.b@aol.com](mailto:Janice.b@aol.com) @janicebaolcom  
[@floridaaquarium](https://twitter.com/floridaaquarium) [@WWF](https://twitter.com/WWF) Many Alien Algae can help [#protectcleanwater](https://twitter.com/protectcleanwater) from pollution(eg. Oil and Sludge).
  - 3) [EnvironmentMinnesota](https://twitter.com/EnvironmentMinnesota) @EnvironmentMN  
What can you do to [#ProtectCleanWater](https://twitter.com/ProtectCleanWater)? Demand that your senators stand up and publicly support the EPA's... [fb.me/1KiAYEiBl](https://fb.me/1KiAYEiBl)
  - 4) [American Rivers](https://twitter.com/AmericanRivers) @americanrivers  
Our streams & outdoor recreation depend on clean water [ow.ly/BMmBg](http://ow.ly/BMmBg) / We need [@EPA](https://twitter.com/EPA) to [#protectcleanwater](https://twitter.com/protectcleanwater) [ow.ly/BMmMR](http://ow.ly/BMmMR)
  - 5) [Clean Water Action](https://twitter.com/CleanWaterAction) @cleanh2oaction  
Friday Fun to [#protectcleanwater](https://twitter.com/protectcleanwater) - our pets need it too!! [protectcleanwater.org](http://protectcleanwater.org)  
[@BuzzFeedAnimals](https://twitter.com/BuzzFeedAnimals) [@HuffPostGreen](https://twitter.com/HuffPostGreen) [pic.twitter.com/T3javSaBaq](https://pic.twitter.com/T3javSaBaq)

**Glenn Watkins**

**Program Assistant, Water and Government Affairs Programs**

**Natural Resources Defense Council**

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## Document 41

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report -- September, 22th 2014  
**Date:** Monday, September 22, 2014 4:29:26 PM

---

FYI

Jon Devine

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**From:** Devine, Jon  
**Sent:** Monday, September 22, 2014 4:29 PM  
**To:** Clean Water Working Group  
**Subject:** Clean Water Protection Rule Media Report -- September, 22th 2014

Clean Water Protection Rule Media Report

September, 22th 2014

News Coverage

[Cook, Conaway differ on water rules](#) - The VV Daily Press, 9/21/2014 - A Bill approved this month blocking the federal government from asserting regulatory authority over many of the nation's streams and wetlands was heralded by Rep. Paul Cook, R-Apple Valley, for protecting control of local waters.

[206 Million Pounds of Chemicals Hit Our Waterways in One Year](#) - Nature World News, 9/21/2014 - A new report prepared by the Environment America Research and Policy Center (EARPC) has revealed that in 2012 alone, more than 206 million pounds of toxic chemicals found were dumped into United States waterways despite efforts by local officials and the US Environmental Protection Agency (EPA) to prevent this harmful action.

EPA: [We can have clean water and not harm farming](#) - The Des Moines Register, 9/20/2014 - When Congress passed the Clean Water Act in 1972, it didn't just defend the mighty Mississippi or Missouri rivers from pollution. It also protected our smaller streams and wetlands that flow into rivers like the Des Moines, Cedar and Raccoon in Iowa.

Tarter: [Pure water worth preserving](#) - Journal Star, 9/20/2014 - You'd think we all want to be on the same page when it comes to preserving the nation's water supply...

Kane county farmers take stand against USEPA's rules

change<<http://couriernews.suntimes.com/2014/09/19/kane-farmers-take-stand-usepas-rules-change/>> - Elgin Courier-News, 9/19/2014 - Kane County farmers are opposing a proposed change to the federal Open Waters Act that would create new regulations and give the United States Environmental Protection Agency authority over all bodies of water, even detention ponds.

[Beer fight brewing over EPA rule](#) - The Hill, 9/19/2014 - A battle is brewing in the beer industry over a new regulation from the Environmental Protection Agency that spells out the agency's authority to regulate bodies of water.

[New EPA Water Rules Bring Beer War to a Head](#) - Newsmax, 9/19/2014 - The beer industry is battling over a new Environmental Protection Agency regulation that gives the agency regulatory power over bodies of water, with small craft brewers for the new rule but farmers arguing against it.

Opinion

[Brooks letter 9-17-14: Protecting our water](#) - Salina Journal, 9/22/2014 - When Congress passed the Clean Water Act in 1972, it didn't just defend the mighty Mississippi or Missouri rivers from pollution. It also protected our smaller streams and wetlands that flow into rivers like the Arkansas, Kaw, Ninnescah, Smoky Hill, and Neosho in Kansas.

[Opinion: Clean water proposal helps recreation economy](#) - Boulder Daily Camera, 9/21/2014 - I was fortunate to move to Colorado a number of years ago — for the fishing. I've put my academic and field training in fisheries, wildlife and conservation biology to use serving as a field representative for the Theodore Roosevelt Conservation Partnership...

[Opinion: New Clean Water Act needed to address runoff pollution](#) - Milwaukee Wisconsin Journal Sentinel, 9/20/2014 - The federal Clean Water Act has gone about as far as it can go in cleaning up the nation's waterways — but it's only done about half the job.

Results for #protectcleanwater

Top / All<<https://twitter.com/hashtag/protectcleanwater?f=realtime>>

1) Joe Bieliunas @Dadsspook57<<https://twitter.com/Dadsspook57>>

Tell your Reps to stop blocking public review of the @EPA<<https://twitter.com/EPA>>  
#protectcleanwater<<https://twitter.com/hashtag/protectcleanwater?src=hash>> rule  
<http://d.shpg.org/57615742t><<http://t.co/Yfjwe4BbhZ>>

<<http://t.co/VOvIsvqgQo>>

2) Clean Water Action @cleanh2oMA<<https://twitter.com/cleanh2oaction>>

#PeoplesClimate<<https://twitter.com/hashtag/PeoplesClimate?src=hash>>

#protectcleanwater<<https://twitter.com/hashtag/protectcleanwater?src=hash>>  
pic.twitter.com/pTXvI7Js7x<<http://t.co/pTXvI7Js7x>>

3) American Rivers @americanrivers<<https://twitter.com/americanrivers>>

Good op-ed on the @EPA<<https://twitter.com/EPA>>'s efforts to

#protectcleanwater<<https://twitter.com/hashtag/protectcleanwater?src=hash>> / Clean Water Act



needs an update <http://ow.ly/BGTKJ><<http://t.co/OpJwH9T69k>>

4) American Rivers @americanrivers<<https://twitter.com/americanrivers>>

Make your voice heard and let @EPA<<https://twitter.com/EPA>> &

@USACEHQ<<https://twitter.com/USACEHQ>> know that you support improvements to better#protectcleanwater<<https://twitter.com/hashtag/protectcleanwater?src=hash>>. <http://ow.ly/BGThP><<http://t.co/tyloM1LMvg>>

5) Clean Water Action @cleanh2oaction<<https://twitter.com/cleanh2oaction>>

We're marching with #PeoplesClimate<<https://twitter.com/hashtag/PeoplesClimate?src=hash>> to #ProtectCleanWater<<https://twitter.com/hashtag/ProtectCleanWater?src=hash>>. We have the solutions. It's time for action!

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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**From:** [Hammer, Rebecca](#)  
**To:** [Kopocis, Ken](#); [Sawyers, Andrew](#); [Nagle, Deborah](#)  
**Subject:** Region 8 & 10 MS4 Permit Modifications  
**Date:** Friday, September 19, 2014 1:59:06 PM  
**Attachments:** [2643 JBLM Comments on modified permit 09-08-14.pdf](#)  
[Buckley Comments on Modified Permit - NRDC CLF AR - 19 September 2014.pdf](#)

---

Mr. Kopocis, Mr. Sawyers, & Ms. Nagle—

NRDC would like to bring to your attention the comments we recently filed on two EPA-proposed permit modifications in Regions 8 and 10. These modifications are being proposed to stormwater permits that the Regions issued to Department of Defense facilities, and are being proposed as a result of settlement negotiations after DOD challenged the original permits.

As you can see from our comments, these proposed modifications significantly weaken the permits. This situation concerns us not only because of the potential impacts to local waters in Washington State and Colorado, but also because of its national policy implications. When EPA announced that it would not be issuing a national stormwater rule, the Agency told the environmental community that it would instead focus on strengthening permits through the existing MS4 program. These proposed permit modifications are inconsistent with those prior statements.

We hope that you will work with Regions 8 and 10 to ensure that these proposed modifications are not finalized, and with EPA stormwater permitting staff across the country to ensure that the intent of the Agency in strengthening the stormwater program is carried out.

Sincerely,  
Becky Hammer

---

Becky Hammer  
Project Attorney, Water Program\*  
Natural Resources Defense Council  
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*\*Admitted to practice in New York and the District of Columbia*

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## Document 43

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Today's News Hits Thursday 9/18/14  
**Date:** Thursday, September 18, 2014 9:54:11 PM

---

FYI.

Jon Devine

Senior Attorney, Water Program

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**From:** [mkelly@cleanwater.org](mailto:mkelly@cleanwater.org) [mailto:[mkelly@cleanwater.org](mailto:mkelly@cleanwater.org)]  
**Sent:** Thursday, September 18, 2014 3:50 PM  
**To:** Clean Water Working Group  
**Subject:** [clean-water-wg] FW: Today's News Hits Thursday 9/18/14

-----Original Message-----

From: "Phil Dimotsis" <[pdimotsis@cleanwater.org](mailto:pdimotsis@cleanwater.org)>

Sent: Thursday, September 18, 2014 12:48pm

To: "Michael Kelly" <[mkelly@cleanwater.org](mailto:mkelly@cleanwater.org)>

Subject: Today's News Hits Thursday 9/18/14

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

September, 18, 2014

## News Coverage

### Water rule reveals changed realities

Feedstuffs - Sep 17, 2014- He explained that many of the interconnections in the environment weren't known when navigability was written into the **Clean Water Act** in the 1970s. The touchstone of the issue is the idea of what constitutes a significant nexus. Mehan, who currently serves ...

[CBF-PA: York County Commissioners Pass Clean Water Counts! Resolution](#) – 9/18/14 - NorthcentralPa.com - CBF embarked on the Clean Water Counts campaign in response to the Department ... The resolution builds on York's on-going clean water efforts. ... the anniversary of the **Clean Water Act**. To learn more about the campaign go to ...

[Farm Bureau and big ag misrepresenting EPA water rule](#) – 9/18/14 -Farm and Dairy - Offered March 25 by EPA to address court-ordered changes in the decades-old **Clean Water Act**, WOTUS has become a leather-lunged political test

[Reed bill aimed at blocking EPA water rules](#) – 9/18/14 -Fairport-E.Rochester Post -The Ontario County Board of Supervisors' fight against definition changes to the **Clean Water Act** — which officials say would take away the local ...

[Republicans Hit a New Low With Claim The Clean Water Act Is An EPA Land Grab Scheme](#) – 9/18/14 -Teamsters Local Union No. 174 -It is likely that Republicans understand that nothing frightens ignorant Americans more than warning them that some group is coming to take something from them...

[Elk County wants to “Ditch the rule”](#) -9/17/14 -Bradford Era - RIDGWAY — Elk County officials are voicing opposition to what they say is a proposed expansion of federal power over waterways that will hurt farmers and business owners alike. Tuesday's meeting of the Elk County Board of Commissioners included ...

[NPCA release roll-call Vote count on HR5078](#)

## **Opinion**

[LETTER: Close Clean Water Act loophole](#) – 9/18/14, Asbury Park Press - These waterways have been left in limbo for nearly a decade after U.S. Supreme Court decisions created a loophole in the Clean Water Act. The decisions muddled the waters on whether all waters should be protected — or just those that are navigable.

## **Paul Cook's "Yeah" Vote on HR 5078 Will Endanger Public Waters & Blocks ...**

Highland Community News (subscription) - Sep 15, 2014 - On September 9, the US House of Representatives voted 262 to 152 to approve HR 5078 as an attempt to block the **Clean Water Act** protection rule-making underway by the US Environmental Protection Agency (USEPA) and US Army Corps of Engineers ...

[Pass regs to protect water](#) - 9/18/14 - The Augusta Chronicle - Loopholes in the **Clean Water Act** have left more than 40,000 miles of Georgia's streams vulnerable to pollution, including many that feed into the ...

## **Blogs/Social Media –**

[NRDC Water @NRDCWater](#) · Sep 15

Great video by our friends [@PrairieRivers](#): <http://bit.ly/1m9DTVU>. Don't let dirty water

attacks take away our right to explore!

1. [A. Nichols @panich52](#) 3h

Republicans Hit a New Low With Claim The [#CleanWaterAct](#) Is An [#EPA](#) Land Grab Scheme - <http://www.politicususa.com/2014/09/17/clean-water-act-epa-land-grab-scheme.html> ...

[SIERRA SUN TIMES @SIERRASUNTIMES](#) 6h

Vote in Congress Ups the Pressure on EPA Proposal Of Expanding Enforcement Authority Under the [#CleanWaterAct](#) <http://fb.me/2D8nxLrDS>

Great social networking effort by EPA to [#protectcleanwater](#). Sign up today! -- Do You Choose Clean Water? <http://blog.epa.gov/blog/2014/09/do-you-choose-clean-water/#.VBsfO01OWuk.twitter> ...

[Barack Obama @BarackObama](#) 3h

Don't let polluters win: <http://ofa.bo/a0vZ> [#CleanWater](#) [pic.twitter.com/fWErdZMI7V](http://pic.twitter.com/fWErdZMI7V)

[Missouri Farm Bureau @MO\\_Farm\\_Bureau](#) 28m

The [#WOTUS](#) Wall at [#MOFB](#). Join thousands who are telling the [#EPA](#) to [#DitchtheRule](#)! <http://ditchtherule.fb.org>. <http://ow.ly/i/6VPHM>

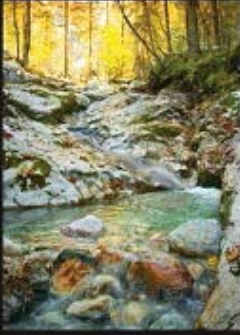
[Team Joni @JoniForIowa](#) 1h

Farmer plans to ask for refund from IA Corn Growers Assn for endorsing Braley who voted against [#DitchTheRule](#) [#IASEN](#) <http://dmreg.co/1wsHpeN>

[Ag commissioners petition for withdrawal of Waters of the US Rule](#) - Mississippi Business Journal -9/18/14 - JACKSON — At the annual meeting of the National Association of State Departments of Agriculture (NASDA), NASDA members, which include ..

Phil Dimotsis  
National Program Assistant  
Clean Water Action  
1444 Eye St. NW Suite 400  
Washington, DC 20005  
Office: 202-895-0420 ext.104  
Cell: 540-290-9392

**#ProtectCleanWater**



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## Document 44

**From:** [Slesinger, Scott](#)  
**To:** [Kopocis, Ken](#); [Ganesan, Arvin](#)  
**Cc:** [Devine, Jon](#)  
**Subject:** McCarthy meeting follow up on waters  
**Date:** Thursday, September 18, 2014 4:32:53 PM  
**Attachments:** [Positive WOTUS clips as of GW 9-17-2014.xlsx](#)  
[NRDC Waters of the US work to date-edited for epa.docx](#)

---

Here are our clips and actions.

Anything else you need clarified, please let me know. Thanks, it was a helpful meeting

Scott Slesinger  
[sslesinger@nrdc.org](mailto:sslesinger@nrdc.org)  
*Legislative Director*  
Natural Resources Defense Council  
1152 15<sup>th</sup> Street, N.W. #300  
Washington, DC 20005

202-289-2402 (o)

202-870-1066 (c)

[www.nrdc.org](http://www.nrdc.org)

Follow my tweets [www.twitter.com/scotttsles1](https://twitter.com/scotttsles1)

I blog at <http://switchboard.nrdc.org/blogs/sslesinger/>

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: [clean-water-wg] FW: Today's Protect Clean Water Press Hits  
**Date:** Wednesday, September 17, 2014 12:21:10 PM

---

FYI

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

September, 17th 2014

## News Coverage

[A.G. Schneiderman Leads 8-State Coalition in Supporting Broad Protections of Waters Under Federal Clean Water Act – 9/16/14 – Long Island Exchange](#)

## Schneiderman pushes for new federal water protections

Capital New York - 21 hours ago - According to a 2013 study by the Environmental Law Institute, 36 states have laws that could prevent the protection of waters not covered by the Clean Water Act. According to the attorney general's office, the new rules will help protect the city's drinking water ...

[EcoFocus: Clean Water Act cleanup](#) - Poughkeepsie Journal – Sep 14, 2014 - The *Clean Water Act* of 1972 and related laws put an end to the worst of this by regulating releases of pollution and providing money for better ...

[Despite House vote, EPA administrator pushes to clarify agency's ...](#) **Minneapolis Star Tribune-Sep 15, 2014** - McCarthy made her comments Monday during a visit to New Mexico, where she helped to commemorate the start of a \$2 million flood-control project aimed at keeping sediment out the Rio Grande and alleviating flooding concerns for the village of Corrales.

[The EPA is coming to get us ... or not](#) - Colorado Springs Independent - 7 hours ago - Just before the El Paso County commissioners passed a resolution opposing a proposed change to the federal Clean Water Act last week, Commissioner Sallie Clark had something to say. "Imagine if every little drainage way was considered a navigable ...



['It's one big, huge outreach'; Local farm community wary of EPA water grab](#) -

**Huron Daily Tribune - 2 hours ago** - The proposal, released in April, amends the 1972 **Clean Water Act**. It sets new definitions of what waterways would fall under federal jurisdiction. Interstate waters, wetlands, tributaries and “all waters which are subject to the ebb and flow of the tide,” along with...

[Waters of the US?: EPA proposal raises local concerns](#) **Redwood Falls Gazette - 21 hours ago** - While Rep. Collin Peterson said he does not believe the Senate is going to pass the bill, he believes this issue is not over even if the EPA proceeds. “If the EPA moves ahead they will be sued,” said Peterson. For Peterson, the current proposal needs to be stopped and a new concept needs to be created.

[Grassley blasts Braley for no vote on EPA ‘overreach’ bill](#) – **Radio Iowa 9/17/14** - Republican Senator Chuck Grassley has issued a carefully worded written statement that takes aim at a vote Democrat Bruce Braley took in the U.S. House last week.

## **Opinion**

[Congress failed in helping protect New Jersey's waterways: Letters](#)

NJ.com - Sep 16, 2014 - To the Editor: The EPA's efforts to restore full **Clean Water Act** protections to all of our waterways across the country and here in New Jersey, hit a big setback last week in Congress. The House of Representatives voted to bar the EPA from fully restoring Clean ...

## **Op-Ed: Redefining the rules for protecting the nation's waters**

**DigitalJournal.com - Sep 14, 2014** - When the **Clean Water Act** of 1972 became law, aspirations were high that it would put an end to the filthy, polluted waterways many of us grew up with. But over the past few decades, a phrase in that law has become a source of contention in the courts.

[Opinion: Clearing the air over clean waters measure](#) – **9/16/14 – North Jersey** - WHAT DO health, beer, pizza, cars and computer chips have in common? Clean water. Whether you are drinking, fishing, swimming or manufacturing consumer goods, the world doesn't go around without clean water

[Don't Think of a Clean River](#) – Huffington Post – 9/15/14 - **by Margie Alt, EA**

## **Blogs/Social Media** –

[State Attorneys General Express Strong Support for Clean Water Protection Rule](#) - Natural

Resources Defense Council (blog) - 21 hours ago-

**Arkansas Wildlife Federation (video series)** - [https://www.youtube.com/watch?v=xPBu\\_mDwqh8](https://www.youtube.com/watch?v=xPBu_mDwqh8)

**OFA now supports Clean Water Rule** - [http://www.barackobama.com/protect-our-water/?source=socnet\\_tw\\_CC\\_20140916\\_bo\\_protect-our-water\\_protect\\_1&awesm=ofa.bo\\_f0uy&utm\\_source=tw&utm\\_campaign=CC&utm\\_content=20140916\\_bo\\_protect-our-water\\_protect\\_1&utm\\_medium=socnet](http://www.barackobama.com/protect-our-water/?source=socnet_tw_CC_20140916_bo_protect-our-water_protect_1&awesm=ofa.bo_f0uy&utm_source=tw&utm_campaign=CC&utm_content=20140916_bo_protect-our-water_protect_1&utm_medium=socnet)

**WVTU @WVTU** 1h The CWA is vital to the future of West Virginia's trout fishing.  
**#ditchthemyth** | <http://vimeo.com/95416460> (SEE VIDEO)

**Justin Schneider @ifbjustin** 5m What EPA and the Corps think they regulate as a "water of the US" <http://ow.ly/BBrTR>

**LyndseyMurphy @LyndseyMurphy** 21m The EPA **#WOTUS** rule would regulate land use without cleaner lakes & rivers. <http://bit.ly/1rO43MS> **#DitchTheRule**

Cheers,

Phil Dimotsis  
National Program Assistant  
Clean Water Action  
1444 Eye St. NW Suite 400  
Washington, DC 20005  
Office: 202-895-0420 ext.104  
Cell: 540-290-9392



**From:** [Caleb Laieski](#)  
**To:** [Richardson.robin@Epa.gov](mailto:Richardson.robin@Epa.gov)  
**Cc:** [Hill, Franklin](#); [aastanislaus](#); [Garvin, Shawn](#); [Early, William](#); [Capacasa, Jon](#); [Comments FFRRO](#); [RMPPRC@epacdx.net](mailto:RMPPRC@epacdx.net); [oemwebmaster@epa.gov](mailto:oemwebmaster@epa.gov); [Brownfields-Web-Comments](#); [Mccarthy, Gina](#); [nrdcinfo@nrdc.org](mailto:nrdcinfo@nrdc.org); [Kopocis, Ken](#); [Jones, Jim](#); [Feldt, Lisa](#)  
**Subject:** Add the Anacostia River to the Superfund National Priorities list  
**Date:** Wednesday, September 17, 2014 10:44:40 AM

---

Administrator McCarthy and Director Richardson,

I am urging your administration the add the Anacostia River to the Superfund National Priorities List and make it a top priority for this river to be cleaned up. It is severely polluted by sediments, nutrients, pathogens, toxins, stormwater pollution, sewage and trash. The National Resource D Council (NRDC) reports that "As a result, water that was once absorbed and filtered by soil and plants now rushes across pavement, picking up nitrogen, phosphorous, oil, heavy metals, bacteria and viruses, which are dumped directly into the river." and they also continue to state in their report that "Like many older cities, Washington uses a sewer system that carries both sewage and stormwater in the same set of pipes."

The pollution is a threat to our drinking water, folks that fish from the river, wildlife and so much more.

Please add this river to your priority list and help clean on of the largest rivers in the nations capital. I thank you very much for all you do for our environment and country.

My very best,

Caleb Laieski

## Document 47

**From:** [Devine, Jon](#)  
**To:** [Ganesan, Arvin](#); [Jan Goldman-Carter](#); [Kopocis, Ken](#)  
**Cc:** [Burley, Veronica](#)  
**Subject:** RE: Any available time to catch up?  
**Date:** Tuesday, September 16, 2014 1:53:03 PM

---

Terrific – thank you. If it happens Friday, between 1-5 is best for me.

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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---

**From:** Ganesan, Arvin [<mailto:Ganesan.Arvin@epa.gov>]  
**Sent:** Tuesday, September 16, 2014 1:52 PM  
**To:** Jan Goldman-Carter; Devine, Jon; Kopocis, Ken  
**Cc:** Burley, Veronica  
**Subject:** RE: Any available time to catch up?

+ Veronica to schedule.

Thanks!

---

**From:** Jan Goldman-Carter [<mailto:goldmancarterj@nwf.org>]  
**Sent:** Tuesday, September 16, 2014 1:32 PM  
**To:** Devine, Jon; Ganesan, Arvin; Kopocis, Ken  
**Subject:** RE: Any available time to catch up?

And I could do 1:30-3 Thursday or anytime Friday except 11-12.

Thanks from me, too!

Jan Goldman-Carter

Senior Manager, Wetlands and Water Resources

National Wildlife Federation

National Advocacy Center

901 E St, NW

Suite 400

Washington, DC 20004

202-797-6894

[goldmancarterj@nwf.org](mailto:goldmancarterj@nwf.org)

[www.nwf.org/waters](http://www.nwf.org/waters)

---

**From:** Devine, Jon [<mailto:jdevine@nrdc.org>]  
**Sent:** Tuesday, September 16, 2014 1:25 PM  
**To:** [ganesan.arvin@epa.gov](mailto:ganesan.arvin@epa.gov); [kopocis.ken@epa.gov](mailto:kopocis.ken@epa.gov)  
**Cc:** Jan Goldman-Carter  
**Subject:** Any available time to catch up?

Good morning, Arvin & Ken—

I wanted to see if you folks had time to speak briefly with Jan and me about the agency's progress on responding to some of the inquiries about the rule as well as its outreach strategy over the coming several weeks. I am traveling a bunch over the next couple days, but should be able to do a call virtually any time after 1:30 Thurs.

Thanks,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 9/16/14  
**Date:** Tuesday, September 16, 2014 1:38:49 PM  
**Attachments:** [Final AG Letter 9.16.14.pdf](#)

---

FYI. Also, please find attached a great letter from 8 attorneys general in support of the rule, which Becky Hammer here at NRDC blogged about today:  
[http://switchboard.nrdc.org/blogs/rhammer/state\\_attorneys\\_general\\_expres.html](http://switchboard.nrdc.org/blogs/rhammer/state_attorneys_general_expres.html).

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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# Clean Water Protection Rule Media Report

**Prepared for NRDC, Clean Water Action, and the National Wildlife Federation**

September 16, 2014

## News Coverage

[Despite House vote, EPA administrator pushes to clarify agency's role in Clean Water Act](#) – *Star Tribune*, 9/16/2014 – Environmental Protection Agency Administrator Gina McCarthy said Monday she's not backing down on her agency's efforts to implement a new rule that would assert regulatory authority over many of the nation's streams and wetlands despite criticisms that it amounts to a federal water grab.

[House blocks WOTUS rule](#) – AP (Agrinews.com), 9/15/2014 – The Republican-controlled House on Sept. 9 approved a bill to block the Obama administration from implementing a rule that asserts regulatory authority over many of the nation's streams and wetlands.

[Paul Cook's "Yeah" Vote on HR 5078 Will Endanger Public Waters & Blocks Rulemaking Efforts to Protect Our Public Waters by Non-Partisan Professionals](#) – *Highland Community News*, 9/15/2014 – On September 9, the US House of Representatives voted 262 to 152 to approve HR 5078 as an attempt to block the Clean Water Act protection rule-making underway by the US Environmental Protection Agency (USEPA) and US Army Corps of Engineers (USACE).

[House passes water protection act](#) – *Stuttgart Daily Leader*, 9/15/2014 – In a 262-152 vote with, the House of Representatives passed The Waters of the U.S. Regulatory

Overreach Protection Act of 2014, sending a clear signal to the Environmental Protection Agency (EPA) that the body does not support the Waters of the U.S. rule as drafted.

[Clean water debate affects Chattahoochee River](#) – *WRBL*, 9/10/2014 – Lawmakers in Washington are fighting a proposal by the Environmental Protection Agency that affects the Chattahoochee River.

## Opinion:

–  
[Congress muddies clean water bill](#) – *Minnesota Daily* (Letter), 9/16/2014 – A recent Minnesota Daily article, “After population decline, researchers optimistic about monarchs,” shows that we should be doing everything we can to protect our rivers, lakes and other water habitats. Unfortunately, it seems that Congress, including Rep. Tim Walz, D-Minn., is doing everything it can to put them in jeopardy.

[Congress failed in helping protect New Jersey waterways](#) – *NJ.com* (Letter), 9/16/2014 – The EPA's efforts to restore full Clean Water Act protections to all of our waterways across the country and here in New Jersey, hit a big setback last week in Congress.

## Blogs/Social Media

[Don't Think of a Clean River](#) – Huffington Post (blog), 9/15/2014 – It's mystifying, but the debate over the U.S. Environmental Protection Agency's proposal to restore Clean Water Act protections to 60 percent of the nation's rivers and streams has centered mostly on ditches.

[Clean Water Protection Rule \(aka WOTUS\) Roundup](#) – River Network (blog), 9/15/2014 – With Labor Day now come and gone, many folks are digging back into their work. As part of that, I'm sending along a bit of a roundup of news and action items on the Clean Water Rule (aka waters of the US rule) to get you back in the loop on what is happening...and what you can do.

[SINO: The Latest, Gravest Threat to American Sportsmen](#) – *Field & Stream*, 9/12/2014 – That would be the "Sportsmen in Name Only" – those hundreds of politicians you keep sending to Congress who claim to love you, but betray you when it suits them. And they struck again this week.

[NASDA Members Say “Withdraw to EPA’s Waters of the US Rule”](#) – NASDA Press Release, 9/12/2014 – At the Annual Meeting of the National Association of State Departments of Agriculture (NASDA), NASDA Members unanimously called on the Environmental Protection Agency (EPA) and US Army Corps of Engineers to withdraw the proposed Waters of the U.S. Rule.

[Americans Speak on Clean Water \(Part 2\)](#) – Clean Water Action (blog), 9/12/2014 – Yesterday I shared with you just a few of the passionate words that people from across the nation had to say about the fight to protect clean water. There were too many, and too many good letters, not to share more.

## Results for #protectcleanwater

Top / [All](#)

- 1) [Environment Illinois @EnvironmentIL](#)  
Why [@EPA](#) is trying to [#protectcleanwater](#) & why polluters are fighting so hard  
[huff.to/1uEfXdV](#)
- 2) [Michael Kelley @MichaelEdKelly](#)  
Learned a new word today, courtesy of [@fieldandstream](#) - SINO: [bit.ly/ZnoaZg](#)  
[#ProtectCleanWater](#)
- 3) [American Rivers @americanrivers](#)  
Good op-ed on the [@EPA](#)'s efforts to [#protectcleanwater](#) / Clean Water Act needs an  
update [ow.ly/Bwrwm](#)
- 4) [Katheryn LeMosy \(Kay\) @klemosy](#)  
Loopholes let polluters dump industrial chems, bacteria, etc. into our H2O. Help  
[#ProtectCleanWater](#): [secure.nrdconline.org/site/Advocacy?\\_\\_\\_\\_\\_](#) ... [@NRDC](#))
- 5) [The TRCP @TheTRCP](#)  
I hunt, I fish and I support clean water. Pass the rule. [ow.ly/B9uvY](#) [@JohnBoozman](#)  
[#protectcleanwater](#)

**Glenn Watkins**

**Program Assistant, Water and Government Affairs Programs**

**Natural Resources Defense Council**

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Washington, DC 20005

202-289-2369



## Document 49

**From:** [Devine, Jon](#)  
**To:** [Ganesan, Arvin](#); [Kopocis, Ken](#)  
**Cc:** [Jani Goldman-Carter](#)  
**Subject:** Any available time to catch up?  
**Date:** Tuesday, September 16, 2014 1:25:34 PM

---

Good morning, Arvin & Ken—

I wanted to see if you folks had time to speak briefly with Jan and me about the agency's progress on responding to some of the inquiries about the rule as well as its outreach strategy over the coming several weeks. I am traveling a bunch over the next couple days, but should be able to do a call virtually any time after 1:30 Thurs.

Thanks,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Clean Water Protection Rule Media Report 9/15/14  
**Date:** Monday, September 15, 2014 11:43:54 AM

---

Apologies for the temporary break in providing these updates. We've now transitioned from outsourcing these to doing them in-house.

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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---

**From:** Waage, Melissa [<mailto:mwaage@nrdc.org>]  
**Sent:** Monday, September 15, 2014 11:08 AM  
**To:** Clean Water Working Group  
**Cc:** Watkins, Glenn  
**Subject:** [clean-water-wg] Clean Water Protection Rule Media Report 9/15/14

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

September 15, 2014

## News Coverage

[Graves says EPA claim about expansion of Clean Water Act “rings hollow”](#) – *The Ripon Advance*, 9/15/2014 – Rep. Sam Graves (R-Mo.) said last week that the EPA's public relations campaign and work to promote an expansion of federal jurisdiction under the Clean Water Act “rings hollow.”

[Farmers worry EPA wants ditches to become federally regulated streams, hurting operations](#) – *The Times and Democrat*, 9/14/2014 – Federal officials are considering new rules clarifying which waters are federally protected. But some forestry and farm officials worry the proposal could prove to be costly.

[Sportsmen's groups take issue with wetlands bill](#) – *The Columbus Dispatch*, 9/14/2014 – A large number of sportsmen's organizations voiced opposition to the Republican-backed United States Regulatory Overreach Protection Act, which passed the U.S. House of Representatives last week along party lines.

[Ernst criticizes Braley over water regulation vote](#) – *WCF Courier*, 9/13/2014 – Republican U.S. Senate candidate Joni Ernst made the case to Iowa Farm Bureau members on Friday afternoon that she would best represent their interests at the

nation's Capitol, but she did not have to work hard to convince them.

[Mills Criticizes Nolan vote on proposed EPA rule](#) – *Brainerd Dispatch*, 9/12/2014 - Eighth Congressional District candidate Stewart Mills III took to the farm Friday and criticized Rep. Rick Nolan's vote on Tuesday against a measure that would limit the authority of the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers regarding water regulations.

[Administration and Farmers Clash Over More Precise Clean Water Act Regulations](#) – *Roll Call*, 9/12/2014 – The Obama administration has found itself in a public brawl with farmers over a proposed rule that would more precisely define what land the Clean Water Act regulates.

-

## **Opinion**

[EcoFocus: Clean Water Act cleanup](#) – *Poughkeepsie Journal*, 9/14/2014 – I spent a lot of time outdoors as a kid in southern Michigan in the 1960s and '70s. The river in my hometown was a sour-smelling mess the color and consistency of potato soup, the...

[Op-Ed: Redefining the rules for protecting the nation's waters](#) – *Digital Journal*, 9/14/2014 – When the Clean Water Act of 1972 became law, aspirations were high that it would put an end to the filthy, polluted waterways many of us grew up with. But over the past few decades, a phrase in that law has become a source of contention in the courts.

[Clean Water Act needs an update](#) – *WCF Courier*, 9/14/2014 – This summer delivered many significant, round-numbered anniversaries. For example, June 6 was the 70th anniversary of D-Day, Aug. 1 the 100th anniversary of the outbreak of World War I...

[Letter: Protect clean water in Illinois](#) – *The State Journal-Register*, 9/11/2014 - This spring, the Environmental Protection Agency proposed a rule to close the loopholes that currently leave 20 million acres of the nation's wetlands and half of its streams and rivers unprotected under the Clean Water Act.

## **Blogs/Social Media**

[Ernst vows to fight for Iowa farmers](#) – *The Hill* (blog), 9/13/2014 – Iowa Republican Senate candidate Joni Ernst warned a gathering of farmers on Friday to ignore “annoying ads” that attack her on the renewable fuels standard. “I do support RFS...

Top Results for #protectcleanwater

Top / [All](#)

- 1) [Meghan Kissell @mkissell](#)  
SIGN UP to [#ProtectCleanWater](#) on [@ThunderclapIt](#) [@EPAWater](#) [thndr.it/1rUOiaB](#)
- 2) [Clean Water Action @CleanWaterCT](#)  
RT [@raycerx58](#): RT [@cleanh2oaction](#): What is it that the House of Representatives doesn't get? [.bit.ly/WKFoOo](#) [#ProtectCleanWater](#)
- 3) [Wildlife Action @wildlifeaction](#)  
Ag and mining lobbyists convinced the House to pass a dirty water bill. [#ProtectCleanWater](#). [.bit.ly/1tnFtST](#) [pic.twitter.com/9KJ1RKYc5G](#)
- 4) [MCEA @MCEA1974](#)

"Loss of job... is something that can cause even the dimmest bulb to light up..." [#VOTE](#) Nov 4th to [#ProtectCleanWater](#) [ow.ly/BqMPa](#)

5) **Clean Water Action @cleanh2oaction**

Who cares about clean water? [.bit.ly/1qHBGRC](#) [#ProtectCleanWater](#)

Melissa Waage  
Campaign Director  
Natural Resources Defense Council  
1152 15th Street NW, Suite 300  
Washington, DC 20005  
(202) 289-2395 (office)  
(423) 943-7369 (mobile)

## Document 51

**From:** [Devine, Jon](#)  
**To:** [abarranco@ceq.eop.gov](mailto:abarranco@ceq.eop.gov); [Ganesan, Arvin](#); [Kopocis, Ken](#); [Rohan\\_Patel@who.eop.gov](mailto:Rohan_Patel@who.eop.gov)  
**Subject:** Dirty water bill SAP  
**Date:** Monday, September 08, 2014 5:52:22 PM

---

Amen! Could not agree more.

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 082714 Clean Water Protection Rule Media Report - 27 items including Colorado Springs Independent, Bozeman Chronicle ...  
**Date:** Wednesday, August 27, 2014 1:53:41 PM  
**Attachments:** [image001.png](#)  
[image007.png](#)  
[image009.png](#)  
[image010.png](#)  
[image014.png](#)  
[image015.png](#)  
[image023.png](#)

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FYI

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Wednesday, August 27, 2014 10:09 AM  
**To:** Waage, Melissa  
**Subject:** 082714 Clean Water Protection Rule Media Report - 27 items including Colorado Springs Independent, Bozeman Chronicle ...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 27, 2014

### News Coverage

**GMOs make November's ballot; water, air and energy make news, too**, Colorado Springs Independent, 08/27/14. Public comment periods are open at the Environmental Protection Agency through Oct. 16 on the Rule on Waters of the U.S., and through Oct. 20 on the Clean Power Plan. And Kim Stevens, campaign director at Denver-based Environment Colorado, a citizen-based advocacy group, says these federal rulings have "huge implications for Colorado." The Rule on Waters seeks to close decade-old loopholes — "polluter-driven court decisions" that "gutted the Clean Water Act," Stevens says. "Every polluting industry is working to keep this from moving forward."

### Opinion

**Protect Montana's clean water for future generations**, Bozeman (MT) Daily Chronicle, (op-ed),

08/27/14. Jim Vashro: The Supreme Court encouraged EPA and the Army Corps to better define the waters covered by CWA. Sportsmen and women, Congress, industry and agriculture, including the Farmers Union, have all called for better criteria to protect these important waters and provide more certainty in permitting. After years of work and public input, the EPA and corps have released a proposed "Waters of the US" rule that would once again apply CWA to isolated wetlands and intermittent streams, while also clarifying exemptions from the law. I recently saw a letter to the editor that claimed the new criteria would apply to puddles after a rainstorm and would apply to all agricultural practices. That's simply not true. Jim Vashro recently retired after 39 years with Montana Fish, Wildlife and Parks as a fisheries biologist and regional fisheries manager.

**Clean water must be protected**, Houma (LA) Today, (letter to the editor), 08/26/14. Robert D. Gorman: The Environmental Protection Agency has proposed a Waters of the U.S. rule, which clarifies what waterways are protected under the Clean Water Act and what waterways are not. It is important that the EPA finalize this rule so that waterways and communities in Louisiana and the rest of the country can be protected from pollution. Recent Supreme Court decisions make these clarifications necessary. I urge the EPA to finalize this rule and I urge Sens. Mary Landrieu and David Vitter to encourage the EPA to complete the rulemaking process so that the health of our families and waterways in Louisiana can be protected and improved. Robert D. Gorman is Executive director of the Catholic Charities of the Diocese of Houma-Thibodaux.

**Clean Water Conundrum: Ditch the rule or Ditch the Myth**, Growing Produce, (op-ed), 08/26/14. Frank Giles: Opposition groups raised the alarm, saying the rule change could put ditches on farms under the jurisdiction of the Clean Water Act. The American Farm Bureau has even mounted a campaign called "Ditch The Rule". EPA has countered with reliable DC sarcasm, saying the Farm Bureau is trying to trick you into believing the government wants to take more control over your property rights. In fact, EPA insists this rule change is intended to help growers by clarifying the definition and cutting red tape. They even countered with their own Twitter campaign. I will leave it to you to decide which side is being more truthful. But, perhaps this question might be instructive in your decision. Which organization has historically made it easier for you to farm — the EPA or the American Farm Bureau? Frank Giles is editor of Florida Grower.

## **Blogs/Social Media**

**It's Time to Ditch the Rule --** Nebraska Farm Bureau, 08/26/14. Puddles, ponds, ditches, ephemerals (land that looks like a small stream during heavy rain but isn't wet most of the time) and isolated wetlands dot the nation's farmland. The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers on March 25, 2014 issued a proposed rule that would expand its regulatory authority under the Clean Water Act (CWA) to these types of land features and waters, giving the agencies the power to dictate land-use decisions and farming practices in or near them. The rule will make it more difficult to farm or change a farming operation to remain competitive and profitable.

**<https://www.youtube.com/watch?v=9ahgUIVmpYU>**

Retweeted 65 times



**John Stossel** @FBNStossel 18h

This week's all new **[#STOSSEL](#)** is all about the **[#EPA](#)**. **[pic.twitter.com/l8m0Maxl5s](http://pic.twitter.com/l8m0Maxl5s)**



**PA Trout Unlimited** @PennsylvaniaTU 33m

Upcoming **Clean Water Act** Webinar- September 16th Trout Unlimited will host a webinar for members and interested... [fb.me/3exCp5oF6](https://fb.me/3exCp5oF6)



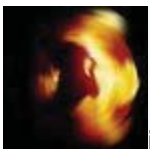
**Meesto** @Sto ology 36m

Sign a petition to Congress telling them to protect our waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Dharmadip** @Dharmadip 39m

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**irishfiregirrl** @irishfiregirrl 5h

Sign petition [#Congress](#), make them protect our [#waterways](#), reject attacks on [#Clean](#) Water Act! [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Craig Morris** @CraigMorris1 5h

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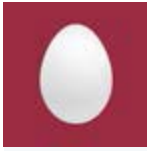


**John J. Delibos** @JDelibos 5h

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**Barbara Owens** [@baowens0948](#) 5h

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**Purr10** [@purr10](#) 6h

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**D Morgan** [@TecDem](#) 6h

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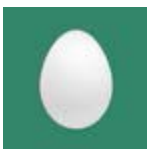
**Stacy Grossman** [@PoliSciCurious](#) 7h

Signed a petition telling Congress to protect our waterways, reject attacks on the **Clean Water Act!**  
[bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



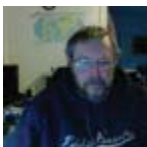
**Wisdom From the Well** [@SandiCornez](#) 7h

I just signed a petition 2 Congress telling them 2 protect waterways, reject attacks on **Clean Water Act!** [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Debbie Raymond** @Debbiemom 8h

signed a petition to Congress telling them to protect waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Jim Thrailkill** 13@a13b 9h

Sign petition to Congress telling them to protect our waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Mick** @michaellamperd 11h

Tell Congress to protect our waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Ben Martin** @bendicoot 11h

Tell Congress to protect our waterways, reject attacks on the **Clean Water Act** strengthen it instead! [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Zilla Pickles** @ZillaPickles 11h

A petition to Congress telling them to protect our waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



**Gary Nickerson** @gary1943 14h

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Water Act! [bit.ly/1tkIS58](https://bit.ly/1tkIS58)



**StormWaterSolutions** @SWSmag 17h

Protect waterways by supporting **Clean Water Act**, Waters of the U.S. rule: [bit.ly/1BZHLxJ](https://bit.ly/1BZHLxJ) via [@missoulia](#)



**CleanWaterAction** @CleanWaterMN 17h

Normal farming activities like planting crops and moving cattle don't need permits under the **Clean Water Act** [#DitchtheMyth](#) | [@EPAWater](#)



**Semper** @Semperfelix 9h

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**Chemical Engineering** @ChemEngMag 15h

Register here for tomorrow's webinar on the EPA **Clean Water Act**: [bit.ly/1mq9Svx](https://bit.ly/1mq9Svx)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 082614 Clean Water Protection Rule Media Report - 14 items including Inside EPA and Show Me Ag video...  
**Date:** Tuesday, August 26, 2014 1:08:22 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image007.png](#)  
[image008.png](#)

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Tuesday, August 26, 2014 10:10 AM  
**To:** Waage, Melissa  
**Subject:** 082614 Clean Water Protection Rule Media Report - 14 items including Inside EPA and Show Me Ag video...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 26, 2014

### News Coverage

- **EPA Appears To Reject SAB Calls To Clarify Controversial 'Waters' Proposal**, Inside EPA, (see below), 08/25/14. EPA's David Evans, acting deputy director of the Office of Wetlands, Oceans and Watersheds within the Office of Water, said during the call while "science plays a role" in determining whether waters are jurisdictional, the test is ultimately a policy decision. During the Aug. 20 call, some panelists acknowledged EPA officials' explanation that the proposed groundwater exclusion is necessary because CWA authority is expressly limited to surface water. But despite EPA's apparent rejection of the suggestions, the panelists continued to urge EPA to make further clarifications, including providing improved definitions of "tributaries" and certain types of "ditches" for the purposes of determining which features fall under CWA purview.

**Governor calls EPA 'Enemy of Agriculture'**, (Lincoln, NE) Journal-Star, 08/25/14. Gov. Dave Heineman on Monday called the U.S. Environmental Protection Agency the "enemy of agriculture" and said the federal agency is the biggest regulatory issue facing Nebraska producers. The most recent disagreement to widen the fissure between the agricultural sector and the EPA is a proposed rule change known as

Waters of the United States, which is being offered by the EPA and the U.S. Army Corps of Engineers. Nebraska Farm Bureau Federation President Steve Nelson said the Waters of the United States proposal is a drastic regulatory power grab by the federal government with far reaching implications for farmers.

**Six candidates take the State Fair stage for Senate debate**, Nebraska Watchdog, 08/25/14. Domina also encouraged people to read an EPA website that debunks myths about proposed water rules clarifying types of waters covered by the Clean Water Act, and accused big corporations of blocking the rules. Jenkins said ranchers have worked hard to clean up their water and soil, and he suggested debate should wait until a scientific panel releases its report. Watson said the rules might be the biggest overreach in the history of the EPA, and the rules assume ranchers don't care about their water.

## **Opinion**

**Call on state leaders to keep waterways clear**, The Northern Virginia Daily, (letter to the editor), 08/26/14. Sarah Coloma: With the news of Toledo, Ohio's issues with algae and subsequent water ban, news of any similarity with Virginian waters is cause for some concern. Our waters are integral to the state of public health and the quality of Virginia's industries, from tourism to fishing. I hope that men and women call on their leaders in Virginia, from Gov. Terry McAuliffe and Senators Mark Warner and Tim Kaine to back efforts to keep Virginia's waterways clear. I urge the EPA to close the current loopholes in the Clean Water Act to ensure we can keep our waters safe. Sarah Coloma lives in Richmond.

## **Blogs/Social Media**

**Show-Me Ag #1111 - EPA Clean Water Act, 08/25/14**. The EPA recently proposed a new rule which has some folks pretty upset. The rule is designed to clarify what waters of the United States are to be regulated and some farm groups are saying it's a big overreach of the EPA's authority and will cause Missouri farmers a new set of headaches. <https://www.youtube.com/watch?v=AplqFX5nWss>



**Chemical Engineering** @ChemEngMag 26m

New webinar on 8/27 hosted by [#siemens](#) and [@POWERmagazine](#) feat. insights on the EPA **Clean Water Act**. Sign up here: [bit.ly/1mq9Svx](http://bit.ly/1mq9Svx)



**BleuZ00m** @BleuZ00m 10h

REMINDER! **Clean Water Act** Definition of "Waters of the United States" Open Comment period extended til 10/20/14 ^[@EPA](#) [water.epa.gov/lawsregs/guida](http://water.epa.gov/lawsregs/guida) ...



**Jill Witkowski** @JillWitkowski 22h

An opinion from Lynchburg, VA on the importance of the **Clean Water Act** [newsadvance.com/opinion/letter](http://newsadvance.com/opinion/letter) ... via [@newsadvance](#)



**BleuZ00m** @BleuZ00m 10h

REMINDER! **Clean Water Act** Definition of "Waters of the United States" Open Comment period extended til 10/20/14 ^@EPA [water.epa.gov/lawsregs/guida...](http://water.epa.gov/lawsregs/guida...)



**Krista Kurvits** @KristaKurvits 12h

just signed petition to Congress telling them protect our waterways, reject attacks on **Clean Water Act**! [bit.ly/1tklS58](http://bit.ly/1tklS58) via @envam



**The Fund SF** @thefundsf 17h

@EnvCalifornia Rep. Pelosi's Chief of Staff met advocates to discuss loopholes in the **Clean Water Act**. [pic.twitter.com/rf16Zl9JT4](http://pic.twitter.com/rf16Zl9JT4)



**Paul Thornsley** @PTcoldfire 17h

The **Clean Water Act** only regulates the pollution and destruction of water, not land or land use #DitchtheMyth | @EPAWater



**BlueforestED** @BlueforestED 18h

EPA and Corps of Engineers Propose New Rule Governing **Clean Water Act** Jurisdiction [twib.in/l/bE46gALdExd](http://twib.in/l/bE46gALdExd) [pic.twitter.com/Ea8naesQF6](http://pic.twitter.com/Ea8naesQF6)



**Levi H** @WalkerTexasLevi 19h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority [shar.es/1nLqwC](http://shar.es/1nLqwC) We need to reign in Bureaucrats #StoptheEPA

Inside EPA - Daily News

# EPA Appears To Reject SAB Calls To Clarify Controversial 'Waters' Proposal

Posted: August 25, 2014

EPA appears to be rejecting calls from a Science Advisory Board (SAB) panel to clarify critical provisions in its controversial plan for clarifying when waters are subject to Clean Water Act (CWA) jurisdiction.

During an Aug. 20-21 teleconference to discuss the proposed rule, an EPA official rejected the panel's suggestion that the agency should consider adopting more of a "gradient" approach to determining whether a smaller waterbody or wetland meets its "significant nexus" test for applying jurisdiction.

EPA's David Evans, acting deputy director of the Office of Wetlands, Oceans and Watersheds within the Office of Water, said during the call while "science plays a role" in determining whether waters are jurisdictional, the test is ultimately a policy decision.

"I just want to stress that 'significant nexus' is a legal term, and it requires a policy determination," he said Aug. 20.

The agency also appears to have rejected some panelists' calls for EPA to expand its proposal to indicate that groundwater in many cases should be considered jurisdictional and subject to regulation.

During the Aug. 20 call, some panelists acknowledged EPA officials' explanation that the proposed groundwater exclusion is necessary because CWA authority is expressly limited to surface water.

But despite EPA's apparent rejection of the suggestions, the panelists continued to urge EPA to make further clarifications, including providing improved definitions of "tributaries" and certain types of "ditches" for the purposes of determining which features fall under CWA purview.

"The common sentiment among the majority of the SAB panel is that [we] have to have some concerns about the definition of tributaries," including how to distinguish whether wetlands that connect two tributaries are also considered tributaries themselves, Jennifer Tank, of University of Notre Dame, said during an Aug. 20 teleconference to discuss the proposal.

EPA and the Army Corps of Engineers jointly issued the proposed rule April 21, seeking to clarify when smaller, isolated and other waters are subject to the CWA following Supreme Court tests that created confusion about when they are subject to regulation.

The agencies are taking comments on the proposal through Oct. 20. As part of the regulatory review, the SAB panel earlier this year also reviewed a related draft study on waters' "connectivity," which is intended to support the proposed rule. The panel also began conducting an informal review of scientific and technical basis of the regulatory proposal for the first time during the Aug. 20-21 teleconference.

The panel's comments on the proposed rule will then be provided to the chartered SAB, which will craft advice for EPA on improving the basis for the rule.

## 'Significant Nexus'

The proposed rule generally follows the test offered by Justice Anthony Kennedy in *Rapanos v. United States*, where he ruled in a concurring opinion that waters that share a "significant nexus" to navigable waters can be regulated under the water law. By contrast, the plurality opinion, written by Justice Antonin Scalia, held that only "relatively permanent" water bodies that connect to traditional navigable waters and wetlands that have a "continuous surface connection" to such relatively permanent water bodies, are jurisdictional.

Following Kennedy's approach, the proposed rule finds that waters sharing a connection that "significantly affects the chemical, physical, or biological integrity" of a jurisdictional waterbody may also be protected under the CWA. To bolster this approach, the proposal is based on the agency's "connectivity" study -- reviewed by the same SAB panel earlier this year -- which defined when waters are connected and may be subject to regulation.

The result is that the proposal would assert default jurisdiction over tributaries and waters located in riparian areas and floodplains, while assessing "other" waters outside of riparian and flood zones on a case-by-case basis to determine if they share a significant nexus to downstream waters.



As part of that, the agency said that waters connected by groundwater -- those with "shallow subsurface connections" to traditionally navigable waters -- may be jurisdictional but did not make groundwater jurisdictional.

The proposed rule has been met with considerable backlash from industry, states, GOP lawmakers and in particular agriculture groups who charge it would massively expand the water law's reach beyond what the high court intended, resulting in "land use" regulations and new permitting burdens for landowners and a multitude of industry sectors.

While EPA's proposal precludes groundwater from jurisdiction, many critics are already concerned that the agency may be leaving the door open to regulating subsurface waters. For example, Tabby Waqar, environmental policy program manager for National Association of Home Builders, has said that though the proposed rule suggests waters can be found jurisdictional through a "shallow subsurface connection," there is no discussion of "what that is, where it ends, and where groundwater begins" particularly in states like Florida with extensive groundwater systems.

### **Groundwater Regulation**

But some SAB panelists have urged EPA to [subject groundwater to regulation](#). "In no cases should groundwater that is shown to be connected to 'waters of the U.S.' be exempt," Kenneth Kolm, of Hydrologic Systems Analysis, Inc., in Golden, CO, writes in Aug. 14 preliminary comments. The proposed rule contains a "tremendous understatement of the role of groundwater" in connectivity, or "nexus," to larger navigable waters, and the proposed exemption excluding groundwater from the definition of "waters of the U.S." for the purposes of the proposed rule would leave jurisdictional waters "vulnerable," he said.

While Evans did not explicitly reject the suggestion, he faced questions from the panel over what the agency intended when it allowed that waters connected by "shallow subsurface connections" are considered jurisdictional. For example, one SAB panel member asked how EPA planned to address concerns that the differences between shallow and deep groundwater should be more clearly defined in the proposed rule, and a second panelist asked how the proposal would apply to vast deep groundwater systems in certain regions, like Florida.

In response, Evans told the panel that if shallow subsurface water is "fairly close to the surface and does provide a direct connection" to downstream waters, that could bring a wetland "in" under the proposal and will be considered an "important field consideration."

Evans also rejected panelists' suggestions to craft a graded approach for determining when waters have a "significant" nexus, saying the agency wants to retain its policy discretion to make such determinations.

One panel member after Evans' remarks said that the "significant nexus" definition is "somewhere clarification needs to be put in, but I'm not sure they can do that."

### **'Tributaries' Definition**

During the Aug. 20-21 call, panel members also raised new concerns over the agency's proposed definition of "tributaries," and in particular its use of the "ordinary high water mark" (OHWM) as part of that definition. One SAB panelist, for example, said Aug. 20 that the advisors are "concerned about the definition of tributary being anchored in something" as regionally variable as the OHWM concept.

EPA's proposed jurisdiction rule currently defines tributaries as "water physically characterized by the presence of a bed and banks and OHWM," and waters that "contribute flow, either directly or through another water" to a jurisdictional waterbody.

The agencies' CWA regulations currently define OHWM as "that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas."

While OHWM does not by itself determine whether a water is or is not jurisdictional, it is generally used as a field indicator for identifying streams and for delineating the lateral boundaries of jurisdictional waters.

But panelists say that some streams in the arid West, where water flows seasonally, may not consistently exhibit an OHWM, and therefore may be excluded from the proposed tributary definition. "Ephemeral streams often do not



have OHWM -- I think that's an issue," Duncan Patten, of Montana State University, said during the Aug. 20 call.

And one SAB panelist suggested there might be a way to "modify the definition of tributaries" to reflect that an OHWM is "sometimes" exhibited.

Panel chair Amanda Rodewald, of Cornell University, also suggested that the panel would recommend clarifying the proposed definition to address their concerns that some parts, such as the OHWM language, as well as how the definition applies to "lakes, ponds and wetlands" that exhibit the criteria, are "confusing."

Mark Rains, of University of South Florida, said on the Aug. 21 call that it is also confusing that while "gullies" are excluded in the proposal, some types of ditches may not be, and that the distinction is not clear, adding that it "all falls under the broader issue of what constitutes a tributary."

The panel also raised concerns about EPA's definition of "ditches," which EPA address in the proposed rule by stating that certain types, such as those "excavated wholly in uplands, drain only uplands, and have less than perennial flow," and that "do not contribute flow, either directly or through another water, to a traditional navigable water," would be excluded, the panel says the distinction between those that would and would not be jurisdictional may not be adequately supported by the science.

"It would be very worrisome not to pay very close attention to the exclusion including ditches," one member of the panel said Aug. 21, and another panelist said, "until there is a clear way to separate the excluded ditches from the not excluded ditches, we might be facing two alternatives." Those alternatives would be either suggesting that EPA clarify in the rule that the ditch exclusions are driven by policy -- not science -- or that the agency create formal subcategories for ditches. -- *Bridget DiCosmo* ([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com))

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 082514 Clean Water Protection Rule Media Report - 24 items including Kansas stations and Tampa Bay editorial...  
**Date:** Monday, August 25, 2014 11:47:07 AM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image006.png](#)

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FYI

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**Sent:** Monday, August 25, 2014 10:07 AM  
**To:** Waage, Melissa  
**Subject:** 082514 Clean Water Protection Rule Media Report - 24 items including Kansas stations and Tampa Bay editorial...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 25, 2014

### News Coverage

**Ranking EPA official denies “power grab” attempt with Clean Water Act changes**, KMA Radio/Shenandoah, IA, 08/22/14. A top administrator with the U.S. Environmental Protection Agency claims proposed changes to the Clean Water Act won't harm agriculture, but he understands that statement is a difficult one to make in farm country. Deputy Assistant EPA Administrator Ken Kopocis denies proposed changes to the Clean Water Act aim at extending the agency's reach onto the farm. “We believe that the proposed rule would cover fewer waters than what the current rule covers,” Kopocis says. “So, we do not believe that we're expanding jurisdiction.” Some Iowa farm groups don't believe such assurances and staunchly oppose the proposal. Officials with the Iowa Farm Bureau Federation fear tighter federal regulation of waterways will hurt farmers and the ag industry.

**New water regulations controversial among Kansas farmers**, Kansas First News, 08/24/14. A large focus was on the EPA's proposed change to the clean water act that would allow the agency to regulate water in small ponds and ditches with running water. Those for the measure say it would lead to cleaner water and help avoid contamination from chemicals used in farming. If approved, farmers would have to

apply for a permit before they could spray their fields.

- **Kansas farmers worry about federal water regulations**, KSNW-TV/Wichita, KS, 08/22/14. Federal regulations on farmers were garnering a lot of conversation at a farm bureau meeting in Garden City Friday. "Farming in Western Kansas is difficult at best, but if you throw another wrinkle into the mix it's going to be very difficult for us to raise crops and raise them efficiently and effectively," said Farm Bureau board member Jim Sipes. A large focus was the EPA's proposed change to the Clean Water Act that would allow the agency to regulate water in small ponds and ditches with running water. Proponents say it would lead to cleaner water and help avoid contamination from chemicals used in farming. If approved, farmers would have to apply for a permit before they could spray their fields.

**Authority pushes lake restoration project**, Associated Press/Cameron, LA, 08/23/14. The Chenier board also approved drafting a letter to the Army Corps of Engineers to oppose the Waters of the United States bill. Introduced in Congress with backing from the Environmental Protection Agency and the Army Corps, the proposal aims to reduce confusion about Clean Water Act protection and clarify the types of waters protected under that act. Laurie Cormier, assistant planner and coastal zone manager for the Calcasieu Police Jury, said the bill would change the definition of U.S. waters, including dry ditches, wetlands, narrow rivers and streams, seasonal streams and snow melt in addition to navigable waters. "The proposed new rule calls for regulatory requirements, which will create a major burden to the parishes of southwest Louisiana," Cormier said. "It will cause more delays and add more paperwork and time.

**This land is my land... or is it?**, Cadillac (MI) News, 08/23/14. Could a proposed ruling take away usable land for farmers? This is a concern some have expressed regarding a joint proposal by the Environmental Protection Agency and Army Corps of Engineers that would give the government more authority to place certain waterways under federal jurisdiction. According to the EPA, the ruling would clarify the types of waters covered under the Clean Water Act and reduce confusion. In Missaukee County, commissioners unanimously approved a resolution that expresses opposition to the ruling. A portion of the resolution reads as such: "Whereas, the proposed rule change, if adopted, will cause significant harm to local farmers, stall the development of businesses, take control of land used for sustainable food production out of our local providers' hands, and negatively impact county-owned and maintained infrastructure such as roadside ditches and country drains; and whereas, the cost to our farms, municipalities, and taxpayers will be enormous."

## **Opinion**

- **Editorial: Stacked deck on Florida water policy**, Tampa Bay Times, (editorial), 08/22/14. Florida's Republican leaders have said little about their secret trips to Big Sugar's leased hunting ranch in Texas, but their record of selling out the public interest says plenty about the impact this incestuous relationship could have on state water policy. Their low regard for clean water, cozy dealings with the agriculture industry and consistent refusal to hold polluters accountable makes it difficult to envision a fair debate over how to manage the state's precious natural resource. If the Legislature really plans to focus on water policy next year, the deck should not be stacked in favor of big agricultural interests and against everyone else. U.S. Rep. Steve Southerland, R-Panama City, who also took a hunting trip to King Ranch, moved on the federal front last week to push another industry priority: blocking new federal oversight of state waterways and wetlands. The new rules could give businesses more certainty about where the Clean Water Act applies, but that didn't stop Southerland from trashing them as job killers and examples of "big government" bullying.

**New Clean Water Act rules important for Montana**, (Helena, MT) Independent Record, (op-ed), 08/2/14. Jim Vashro: Montana has such an abundance of clean water we tend to take it for granted. But that wasn't always the case. By the 1970s, many waters nationwide were grossly polluted, leading in 1972 to the Clean Water Act. This law, passed by a bipartisan majority in Congress, is administered by the EPA and U.S. Army Corps of Engineers. Much progress has been made over the last 40 years, and many streams are once again fishable and swimmable. Montana is not unscathed: Fish in many of our streams and lakes are still under consumption advisories due to pollution. But U.S. Supreme Court decisions in 2001 and 2006 threw out criteria covering isolated wetlands and intermittent streams. Those account for 40 percent of the waters in Montana. The EPA's Waters of the U.S. rule is a practical definition of which

waters are covered by the CWA, giving clarity and certainty to the public, farmers, ranchers and developers. Jim Vashro is a retired Montana Fish, Wildlife and Parks fisheries biologist and regional fisheries manager.

**How much water must EPA control?**, Kearney (NE) Hub, (op-ed), 08/22/14. Sen. Deb Fischer: As I visit communities across the state, countless Nebraskans continue to express to me their concerns with overreach by the federal government. Specifically, many Nebraskans are frustrated by the EPA's increasingly heavy hand. That's why there's so much skepticism about EPA's latest rule regarding the "waters of the United States" or WOTUS. Under the rule, federal bureaucrats — not state and local authorities — could assert control over water resources. This means the federal government could regulate almost any body of water, from road ditches to farm ponds. Nebraskans own the surface and ground water within our state boundaries. This overreach by the federal government is dramatic in scope and unprecedented in effect. Deb Fischer represents Nebraska in the U.S. Senate.

**Don't gut Clean Water Act enforcement.** (Lynchburg, VA) News Advance, (letter to the editor), 08/24/14. James Barton: Water is vital. How much contamination will we allow? On July 31, the House of Representatives, including our local representatives, passed and sent to the U.S. Senate H.R. 935, which will prohibit the Environmental Protection Agency from regulating permits under the Clean Water Act. These permits regulate pesticides that are discharged into navigable waters. The discharge of poisons in any water effects us all and needs to be regulated. Ask the people of Toledo, Ohio, Danville and Charleston, W.Va., how a lack of regulation worked for them. James Barton lives in Monroe.

**Letter: Family farms, small towns won't be left behind**, Chillicothe (OH) Gazette, (letter to the editor), 08/23/14. John Crabtree: The Center for Rural Affairs has stood firmly in favor of the Environmental Protection Agency's proposed Clean Power Plan, which is a vital first step in reducing carbon emissions from existing coal-fired power plants, addressing climate change, and creating opportunities for renewable energy development in rural America. And we have stood up for EPA's crucial Waters of the U.S. proposal to clear the regulatory waters surrounding the Clean Water Act and better protect rural America's most precious resource — water. John Crabtree, Center for Rural Affairs, Lyons, Nebraska

**The state's economy is expendable**, (Kalispell, MT) Daily Inter Lake, (op-ed), 08/23/14. Zach Lahn: That's the effect of two new sweeping regulations from the Washington bureaucracy. The first caps Montana's carbon dioxide emissions, while the second expands the Clean Water Act to give the EPA more control over private ranches and farms. The EPA's redefinition of the Clean Water Act is little different. Issued within days of the carbon dioxide mandate, this rule radically alters the meaning of "navigable waters" to include any lands — private or public — where water could conceivably flow. Armed with its new expansive definition, the EPA will have the authority to require permits and other restrictions on such "navigable waters" as long-since-dry creek beds and manmade drainage ditches. Zach Lahn is the Montana state director for Americans for Prosperity.

## **Blogs/Social Media**

**Diane Roberts: Southerland and the Clean Water Act: Somebody has to stand up for run-off.** St Peters blog, 08/23/14. The congressman came all the way to Tallahassee to hold a press conference, explaining that a proposed EPA rule imposes "crippling Washington mandates" on Florida's alliteratively resonant "farms, forestry and family businesses." In other words, the rule would preserve the Clean Water Act. (Big) Ag commissioner Adam Putnam hinted darkly that since your lawn gets soggy in the rain, the feds could declare it a wetland. Steve Southerland attempted a quip: "Just because we have a rainy day, that's no reason to expand the jurisdiction of the EPA!" Diane Roberts is a professor at Florida State University in Tallahassee.



**Fort Collins Hub** @FortCollinsHub 45m

Polis backs **Clean Water Act** expansion in Fort Collins - The Coloradoan [ift.tt/1p8s4QA](http://ift.tt/1p8s4QA)  
#FortCollins



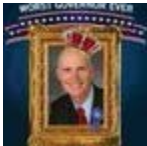
**Clarice** @ClariceI 13h

Sign a petition to Congress telling them to protect our waterways, reject attacks on the **Clean Water Act**! [bit.ly/1tklS58](http://bit.ly/1tklS58) via [@envam](https://twitter.com/envam)



**Lily Brislen** @LilyBrislen 20h

"Debunking the Farm Bureau's Attack on the **Clean Water Act**" [feedly.com/e/emQYKUah](http://feedly.com/e/emQYKUah)  
#agriculture #EPA



**Ken** @deuce788 21h

**Clean Water Act** rules under attack by Farm Bureau and #Florida Cong. Steve Southerland  
[swfwmdmatters.blogspot.com/2014/08/clean-](http://swfwmdmatters.blogspot.com/2014/08/clean-)...



**Progress Florida** @ProgressFlorida Aug 23

**Clean Water Act** rules under attack by Farm Bureau and @Rep\_Southerland by  
[@SWFWMDMatters](http://@SWFWMDMatters) [bit.ly/1pQk1ad](http://bit.ly/1pQk1ad) #pfla #ecofl



**NoCoProgressives** @nocoprogressive Aug 23

EPA helping small biz & farmers with **Clean Water Act**! Isn't that what GOVT is suppose to do?

[coloradoan.com/story/news/loc](http://coloradoan.com/story/news/loc) ... [#copolitics](#) [#cosen](#)



**Peter Schorsch** [@SaintPetersblog](#) Aug 23

Diane Roberts: Southerland and the **Clean Water Act**: Somebody has to stand up for run-off  
[wp.me/pShRp-ES6](http://wp.me/pShRp-ES6)



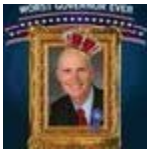
**Michael Barnett** [@AgEditor](#) Aug 22

**Clean Water Act** was a promise to America. EPA is turning into a threat. [#acfc14](#) [#ditchtherule](#)



**Lily Brislen** [@LilyBrislen](#) 49m

"Debunking the Farm Bureau's Attack on the **Clean Water Act**" [feedly.com/e/emQYKUah](http://feedly.com/e/emQYKUah)  
[#agriculture](#) [#EPA](#)



**Ken** [@deuce788](#) 2h

**Clean Water Act** rules under attack by Farm Bureau and [#Florida](#) Cong. Steve Southerland  
[swfwmdmatters.blogspot.com/2014/08/clean-](http://swfwmdmatters.blogspot.com/2014/08/clean-)...



**Julie Vrazel** [@julievrazel](#) Aug 22

RT [@AgEditor](#): **Clean Water Act** was a promise to America. EPA is turning it into a threat. [#acfc14](#)  
[#ditchtherule](#)



**Chris Collins** [@CollinsNY27](#) Aug 22

Thank you Ontario County! RT [@NYFarmBureau](#): Ontario County supervisors oppose **Clean Water Act** changes [.share.illinois.gov/1nF5JN](https://share.illinois.gov/1nF5JN) [#DitchtheRule](#)



**From:** [Hobbs, Karen](#)  
**To:** [Hobbs, Karen](#)  
**Subject:** FW: 082214 Clean Water Protection Rule Media Report - 34 items including Inside EPA, Pensacola Journal editorial...  
**Date:** Friday, August 22, 2014 10:07:33 AM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image010.png](#)  
[image015.png](#)  
[image018.png](#)  
[image019.png](#)

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FYI

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**From:** Patricia Butler [mailto:sagecommunications@earthlink.net]  
**Sent:** Friday, August 22, 2014 9:05 AM  
**To:** Waage, Melissa  
**Subject:** 082214 Clean Water Protection Rule Media Report - 34 items including Inside EPA, Pensacola Journal editorial...

## Clean Water Protection Rule Media Report

### Prepared for NRDC and Clean Water Action

August 22, 2014

### News Coverage

**EPA Advisors Seek Regulatory Clarity For Implementing 'Waters' Rule**, Inside EPA, (see below), 08/21/14. EPA's local government advisors are urging the agency to provide greater clarity on critical definitions in its proposed Clean Water Act (CWA) jurisdiction rule in order to avoid regulatory confusion and ensure consistent field implementation of the rule among regulators in EPA's 10 regions and the Army Corps of Engineers' districts. The advisory board is considering whether and how to craft recommendations for EPA to clarify how regulators in the field are to interpret and implement critical terms in the rule the agency proposed April 21, such as "uplands," "ditches," and "riparian" zones, given repeated concerns they have heard from stakeholders. The LGAC source says the upcoming recommendations -- which could include suggested regulatory language for clarifying the rule, will likely focus on implementation, adding, "we need to be crystal clear in implementation of the rule" while still giving regions enough flexibility to adapt the rules to their respective geography.

**McConnell Vows EPA Budget Riders If GOP Takes Senate**, Inside EPA, (see below), 08/21/14. Senate Republican Leader Mitch McConnell (R-KY) is pledging to include a range of riders in future spending bills limiting Obama administration policies, including major pending EPA regulations, if -- as many political analysts believe is possible -- the GOP takes control of the Senate following the November midterms. McConnell called curbing EPA policies a "good example" of budget riders that would be included. While McConnell did not list specific policies, he and his caucus have in the past targeted a host of major agency measures, including its proposed greenhouse gas (GHG) rules for both new and existing power plants, its Clean Water Act (CWA) jurisdiction plan, regulations governing coal mining and others. And pending legislation to fund EPA and other agencies in fiscal year 2015 -- which begins at the end of September -- is likely to be an early test.



**Gardner, Tipton and Udall offer views on water issues**, Aspen (CO) Daily News, 08/21/14. The EPA, on its website about the proposed rule change, states that "the proposed rule does not protect any new types of waters that have not historically been covered under the Clean Water Act." Rep. Scott Tipton also denounced the EPA's proposed rule change. "That's going to have a regulatory impact and cost to us and it's effectively going to be a taking," Tipton said, "because if the EPA can step in this room and start to tell the state of Colorado, start to tell the western United States, how our water is going to be handled, we're going to be stripping our farm and ranch community of the ability to be able to grow our crops, our communities to be able to grow and to be able to prosper and to be able to create jobs and certainty for our children to be able to have a prosperous future."

**EPA Stands Firm on Proposed Water Rule**, Growing Illinois, 08/22/14. Despite the EPA's outreach efforts on its Waters of the U.S. rule, and numerous efforts by ag organizations to convey their concerns, the impasse over the proposed rule appears to be as wide as ever. Ken Kopocis, deputy assistant administrator in the Office of Water at EPA, says they do not see the rule having any significant impact on the agricultural community. "We believe that the proposed rule would cover fewer waters than what the current rule covers," Kopocis says. "So we do not believe we're expanding jurisdiction." Kopocis says the EPA hears the ag industry's concerns. "We've probably spent more time with representatives of the agricultural community than any other single sector," he says.

**Clean water gets a toast at brewery**, Durango (CO) Herald, 08/21/14. "The EPA's claims that the redefinition of waters of the United States is simply to provide clarity, and not expand any regulatory authority, are in practice, untrue," Tipton said. "This rule has drastic implications for private water users who would now be subject to EPA review for even the most basic projects or access to their water, where they previously were not," he added. "That sounds like an expansion of regulatory authority to me, and it sounds like a significant broadening of the EPA's regulatory scope over surface water in this country." But Tipton's colleague, Polis, a Democrat from Boulder, said the opposition is fueled by misconceptions. He said the rule would not protect any new types of waters that have not historically been covered under the Clean Water Act.

**Polis backs Clean Water Act expansion in Fort Collins**, Coloradoan, 08/21/14. In a Thursday stop at New Belgium Brewing, Congressman Jared Polis voiced his support of the Environmental Protection Agency's "Waters of the U.S.," a controversial update to the Clean Water Act introduced this spring. The proposed rules, which some say are merely clarifications, specify bodies of water protected under the circa-1972 act to include streams, rivers and wetlands. The EPA proposed the rules as an attempt to clarify legal loopholes in the act, a move that has been summarily praised by small farmers and craft brewers in Larimer County.

**Clash over water rules**, The Dalles (Columbia River Gorge, OR) Chronicle, 08/21/14. Farmers and ranchers in Wasco County are concerned that the U.S. Environmental Protection Agency is attempting to gain more control over agricultural practices and private property rights. "EPA is setting the stage to increase their authority over our operations," said Keith Nantz, president of the North Central Livestock Association, which serves Wasco and Sherman counties. "This proposed rule leaves the door open for that to happen. If it goes through, the federal government will have jurisdiction over any area where water collects for only a short time, including some small ponds, ditches and even fields that are wet only when it rains." Nantz, a Maupin rancher, is seated on the water committee of the Oregon Cattlemen's Association.

**RLAT opposes EPA's new ruling**, Bandera County (TX) Courier, 08/21/14. The Ranchers and Landowners Association of Texas (RLAT) Board of Directors followed the lead of the Bandera County Commissioners Court. RLAT recently passed a resolution opposing the proposed new ruling by the United States Environmental Protection Agency (USEPA) and the United States Army Corp of Engineers (USACE) that has redefined "waters of the United States." This new ruling would greatly expand the jurisdictional authority of the Federal Clean Water Act entitled "Definition of Waters of the United States." These redefinitions would expand USEPA and USACE jurisdiction to include waters of the state(s) and other waters previously not regulated including some ditches, farm ponds, dry waterways and isolated wetlands.

## **Opinion**

-  
**Conservatives should conserve**, Pensacola (FL) News Journal, (editorial), 08/21/14. Meet Rep. Steve Southerland, the Panama City congressman who just filed the gratuitously named "Waters of the United States Regulatory Overreach Protection Act." Accompanied by agriculture industry lobbyists and Florida Agriculture Commissioner Adam Putnam, Southerland framed his legislation in Tea Party terminology. Southerland's bill would alter part of the Clean Water Act that puts the Army Corps of Engineers in charge of wetlands development and permitting. He would give that authority to the states. Which brings up the real question: Which politicians are easier for polluters to buy off – state or federal? And the characterization of the Corps as strict, "big government bullies" is just absurd. The Tampa Bay Times found that "from 1999 to 2003, the corps approved more than 12,000 wetland permits in Florida. They rejected just one."

**Time for Obama to fix farm programs**, Lebanon (TN) Democrat & Wilson County News, (editorial), 08/21/14. President Obama must also understand, however, that America's family farms, ranches and small towns do not stand still either. Nor do we intend to be left behind. The time has come for Obama to fulfill his 2007 campaign pledge and close the loopholes mega-farms use to get around farm program payment limits, providing them the unlimited subsidies they use to drive up land costs and drive family farmers out of business. We have applauded Obama's administration for moving the new carbon rule forward and for proposing the waters of the U.S. rule. And if they can do these things then they can by God write a meaningful "actively engaged" rule for federal farm programs that protects family farmers and reins in unlimited farm subsidies.

**EPA grabs power with water rules: U.S. Rep. Glenn Thompson**, Erie (PA) Times-News, 08/22/14. The U.S. Environmental Protection Agency's regulatory attack on our economy in central and northwestern Pennsylvania has been growing for some time. In recent months, the EPA moved forward with another power grab to redefine the agency's jurisdiction under the Clean Water Act through a new proposed rule commonly known as the Waters of the United States (WOTUS). In reality, EPA's plan represents an extraordinary expansion of federal power that will further harm our economy and the rights of both states and private landowners. U.S. Rep. Glenn Thompson of Howard Township is a Republican who represents the 5th District in Congress.

**Let People in Congress Know About Importance of Clean Water**, Laconia (NH) Daily Sun, (Letter to the editor), 08/21/14. Janette Lozada: This "new" proposal is really an old one. It simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams — waters that provide drinking water to 117 million Americans and vital habitat for wildlife. Like just about everything else these days, the proposal has generated some controversy in the halls of Congress. But many of those making wild claims about the rule may not have read the proposal or understand its sweeping exemptions for the agricultural community. Janette Lozada lives in Laconia.

## **Blogs/Social Media**

**Waters of the U.S. Benefit Us All**, Montana's Bully Pulpit blog, 08/21/14. The rule is not an expansion of EPA authority. It includes explicit exemptions for normal farming practices. It exempts all man-made ponds and farmer's irrigation ditches. Rather, it defines the waterways as within the marks of where the water normally flows, even if that's only for part of the year during natural runoff. This is about water that we all use, not about the land. But that's not good enough for some. Some groups have engaged on a campaign of misinformation, stoked by fear and hatred. The rhetoric is outlandish. They say: If you have a puddle in a tire track, that's covered. Farm ditches will be covered, they claim. A farmer even told an EPA official during a listening session in Missouri that the agency was out to "enslave" farmers. When it comes to our environment, self-described "conservatives" should start living up to the root of that word – by conserving.

**Preliminary analysis of EPA/Corp's Waters of the U.S. Proposed Rule**, Montana StockGrowers blog, 08/21/14. Our biggest question at this point is what are we doing so poorly in the state of Montana that the EPA feels they need to obtain more jurisdiction over our waters? We have strong laws and regulations in the Montana and ranchers work hard to protect the land and the water that is so vital to their everyday operations. Our constitution recognizes and confirms existing rights to any waters for any useful or

beneficial purpose and states that “all surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.”



**Ryan Maye Handy** @ryanmhandy 15m

Discussion of EPA new clarifications to **Clean Water Act** has begin w/[@jaredpolis](#) here.  
[pic.twitter.com/siwfdhN7z0](http://pic.twitter.com/siwfdhN7z0)



**Karen Sievers** @KarenSievers 2h

Sign a petition to Congress telling them to protect our waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](http://bit.ly/1tkIS58) via [@envam](#)



**MeryeBeth Albert** @mo11yb1ue 10m

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**Chuck** @FredTanner1 1h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority » CowboyByte [po.st/NMrCJ5](http://po.st/NMrCJ5)  
via [@CowboyByte](#)



**Nancy K Pena** @nkpena 1h

petition to Congress telling them to protect our waterways, reject attacks on the **Clean Water Act!**  
[bit.ly/1tkIS58](http://bit.ly/1tkIS58) via [@envam](#)



**Jeff Downey** @Scrufey21 3h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority » CowboyByte [po.st/znPNIM](https://po.st/znPNIM) via [@CowboyByte](https://twitter.com/CowboyByte)



**Messenger Post Media** [@messengerpost](https://twitter.com/messengerpost) 6h

Ontario County supervisors oppose **Clean Water Act** changes [dlvr.it/6hBymt](https://dlvr.it/6hBymt)



**M. von Sacher-Masoch** [@MMasoch](https://twitter.com/MMasoch) 8h

Tell Congress to protect our waterways, reject attacks on the **Clean Water Act**! [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](https://twitter.com/envam)



**Joe Salazar** [@JoeSalazar17](https://twitter.com/JoeSalazar17) 9h

Congress telling them to protect our waterways, reject attacks on the **Clean Water Act**! [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](https://twitter.com/envam)



**Cerebellum Beverages** [@CerebellumH2O](https://twitter.com/CerebellumH2O) 12h

Polis backs **Clean Water Act** expansion in Fort Collins [dlvr.it/6h5CBG](https://dlvr.it/6h5CBG)



**Ryan Maye Handy** [@ryanmhandy](https://twitter.com/ryanmhandy) 16h

A brief endorsement from [@jaredpolis](https://twitter.com/jaredpolis) at the close of EPA discussion of new **Clean Water Act** rules. [pic.twitter.com/PuloHSGjIZ](https://pic.twitter.com/PuloHSGjIZ)



**Kortny Hahn** [@khahnCDT](https://twitter.com/khahnCDT) 17h

The County Commissioners support revisions being made to the **Clean Water Act**. Read about it

here.



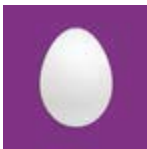
**Keith Kilby** @keith\_kilby 17h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority [shar.es/1n9Phf](https://sharethis.com/shar.es/1n9Phf) via [@sharethis](#)



**Christopher Beattie** @Tzor 18h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority » CowboyByte [bit.ly/1vIO9uo](https://bit.ly/1vIO9uo)



**Rayleen Nunez** @Rayleenmom 21h

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**msiesel** @msiesel 21h

I just signed a petition to Congress to protect our waterways, reject attacks on the **Clean Water Act**! [bit.ly/1tkIS58](https://bit.ly/1tkIS58) via [@envam](#)



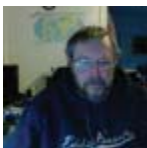
**Nathan Hetrick** @big\_chief82 21h

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**Robert S. Lawrence** @DrCLF 19h

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**Jim Thrailkill** [13@a13b](#) 19h

Signed a petition to Congress telling them to protect waterways, reject attacks on the **Clean Water Act!** [bit.ly/1tkIS58](http://bit.ly/1tkIS58) via [@envam](#)



**David Stirling** [@dwstirl](#) 20h

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#### **Inside EPA/Thursday, August 21, 2014**

### **EPA Advisors Seek Regulatory Clarity For Implementing 'Waters' Rule**

daniel arrieta

EPA's local government advisors are urging the agency to provide greater clarity on critical definitions in its proposed Clean Water Act (CWA) jurisdiction rule in order to avoid regulatory confusion and ensure consistent field implementation of the rule among regulators in EPA's 10 regions and the Army Corps of Engineers' districts.

"It needs to be crystal clear, because the point we're at right now, it's not with the public," one Local Government Advisory Committee (LGAC) source tells *Inside EPA* of recent listening sessions on the rule that the panel held across the United States. At the sessions, officials from industry, agriculture, local water management districts and other groups have outlined their concerns over what they say are ambiguities in the proposed rule.

The concerns add to [pressure on EPA](#) from some "friendly" agricultural sector groups and states to significantly revise the proposed rule in order to address regulatory confusion that the policy could cause. The rule defines the waters of the United States subject to CWA jurisdiction, but critics say its reach is too broad.

LGAC, which primarily consists of local, state, and tribal elected and appointed officials, hosted the sessions as part of its Protecting America's Waters workshop, with the most recent taking place July 10 in Atlanta.

The advisory board is considering whether and how to craft recommendations for EPA to clarify how regulators in the field are to interpret and implement critical terms in the rule the agency proposed April 21, such as "uplands," "ditches," and "riparian" zones, given repeated concerns they have heard from stakeholders.

The LGAC source says the upcoming recommendations -- which could include suggested regulatory



language for clarifying the rule, will likely focus on implementation, adding, "we need to be crystal clear in implementation of the rule" while still giving regions enough flexibility to adapt the rules to their respective geography.

"They need the flexibility to recommend what works in their region," the source says, but "we need a rule that can be implemented or even enforced" in a consistent manner across the United States.

The workgroup expects to hold three more listening sessions this summer, in Tacoma, WA, Boston and Denver, and to begin working on drafting its recommendations in October, which will then be submitted to the full LGAC, the source says. The full panel would then review the suggestions before sending them to EPA.

### **Priority Issues**

LGAC's Protecting America's Waters panel is charged by EPA with developing advice for the agency to help in identifying priority issues related to the rule and areas where more clarity is needed on how local waters will be affected and on how to help local government agencies understand how the rule would apply to them.

Additionally, EPA's charge to the panel asks, "Are there additional policy discussions that could help address local questions about implementation, such as ditch maintenance or green infrastructure?"

A second LGAC source adds that the group has asked local water managers to suggest regulatory language that would go toward addressing their concerns about effects on stormwater systems and other features, saying, the "problem seems to be lying with everyone involved needing to understand and interpret [the rule] the same way."

That source says that there may be a disconnect between EPA headquarters staff that crafted the rule and Corps district field regulators responsible for making jurisdictional determinations after the final rule is issued. That disconnect needs to be addressed before the agency finalizes the rule, the source adds.

EPA and the Corps have faced an onslaught of criticism over the proposed rule seeking to clarify the scope of the CWA, which was released April 21 and which they are taking comment on through Oct. 20.

Concerns have come from a wide swatch of sectors, even some agriculture groups and local regulators sympathetic to EPA that, if the rule is finalized as proposed, it would further confuse the already-uncertain landscape of CWA jurisdiction.

To address such concerns, the agency has sought to assure local regulators on at least some of the concerns, including that it will not subject stormwater channels and green infrastructure features, which the agency has been encouraging municipalities to install, to regulation.

But a third LGAC source says "we felt the green infrastructure concerns were unwarranted," adding that they had their legal team examine the proposal and "we feel comfortable with it," despite having made significant green infrastructure investments in that jurisdiction. -- *Bridget DiCosmo* ([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com))

## News Briefs

### McConnell Vows EPA Budget Riders If GOP Takes Senate

Posted: August 21, 2014

Senate Republican Leader Mitch McConnell (R-KY) is pledging to include a range of riders in future spending bills limiting Obama administration policies, including major pending EPA regulations, if -- as many political analysts believe is possible -- the GOP takes control of the Senate following the November midterms.

In an extensive [interview with Politico](#), McConnell said a newly minted GOP Senate majority -- along with the expected continued Republican control of the House -- will "pass spending bills, and they're going to have a lot of restrictions on the activities of the bureaucracy."

Referring to President Obama, McConnell said, "That's something he won't like, but that will be done. I guarantee it."

McConnell called curbing EPA policies a "good example" of budget riders that would be included.

While McConnell did not list specific policies, he and his caucus have in the past targeted a host of major agency measures, including its proposed greenhouse gas (GHG) rules for both [new](#) and [existing](#) power plants, its Clean Water Act (CWA) jurisdiction plan, regulations governing coal mining and others.

And pending legislation to fund EPA and other agencies in fiscal year 2015 -- which begins at the end of September -- is likely to be an early test. House appropriators in July [approved](#) FY15 funding legislation that would slash EPA's budget and block the GHG rule, the proposed CWA jurisdiction rule and several other agency policies. But a bipartisan Senate companion [released Aug. 1](#) does not include such riders and would also roughly retain EPA's existing \$8.2 billion funding level.

Even though a GOP takeover of the Senate would clear the way for Congress approving budget riders blocking EPA rules, the White House has threatened to veto bills, such as the House FY15 bill, that would block its climate and water rules. That dynamic could increase the threat of another government shutdown.

McConnell, in the Politico story, acknowledged the possibility, arguing it would be up to the president to veto spending bills that would keep the government open. "He would have to make a decision on a given bill, whether there's more in it that he likes than dislikes."

Democrats currently hold a 55-45 edge in the Senate, with Republicans needing to gain six seats to gain control of the chamber. Analysts say the GOP is well positioned to win at least three seats where Democratic incumbents are retiring in Montana, South Dakota and West Virginia.

Several other Democratic senators are facing tough re-election campaigns, including Sens. Mary Landrieu (LA), Mark Begich (AK), Kay Hagan (NC) and Mark Pryor (AR).

But Republicans must also retain their existing seats, a task that might be made more difficult given McConnell's relatively thin support in Kentucky. He currently holds a slim lead of just 3 percentage points over his challenger, Kentucky Secretary of State Alison Lundergan Grimes, according to Real Clear Politics' [polling aggregation](#).



**From:** [Hobbs, Karen](#)  
**To:** [Hobbs, Karen](#)  
**Subject:** FW: 082114 Clean Water Protection Rule Media Report - 38 items including NPR, Cheboygan Daily News, Nebraska radio...  
**Date:** Thursday, August 21, 2014 10:30:15 AM  
**Attachments:** [image001.png](#)  
[image007.png](#)  
[image018.png](#)  
[image020.png](#)  
[image023.png](#)  
[image027.png](#)

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FYI

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**From:** Patricia Butler [mailto:sagecommunications@earthlink.net]  
**Sent:** Thursday, August 21, 2014 9:26 AM  
**To:** Waage, Melissa  
**Subject:** 082114 Clean Water Protection Rule Media Report - 38 items including NPR, Cheboygan Daily News, Nebraska radio...

## Clean Water Protection Rule Media Report

### Prepared for NRDC and Clean Water Action

August 21, 2014

### News Coverage

**EPA Wades Into Water Fight with Farmers.** NPR/All Things considered, 08/20/14. The EPA wants to "clarify" the scope of its oversight of water under the Clean Water Act. Big farm groups like the American Farm Bureau Federation call this a power grab that would place every ditch and mud puddle under federal regulation, forcing farmers to get permits for small trenches around the farm.

**County supports Clean Water Act revisions,** Cheboygan (MI) Daily News, 08/21/14. The Cheboygan County Board of Commissioners voted to adopt a resolution in support of HCR 31 dealing with revisions to the Clean Water Act and will send a copy to all county boards in the state and state political leaders. The Clean Water Act manages the dredging and filling of waters of the United States, including wetlands, unless they are permitted by the Army Corps of Engineers. When any fill or dredging material is being discharged affecting the bottom elevation of any jurisdictional water in the United States, a permit is required from the U.S. Army Corps of Engineers. "These permits are an essential part of protecting wetlands, which are often filled by developers," said Gauthier. "Wetlands are vital to the ecosystem in filtering streams and rivers and providing habitat for wildlife. They are essential to the sports fishery in Cheboygan County."

**EPA claims it seeks clarity not power grab in Clean Water Act proposal,** Nebraska Radio Network, 08/20/14. A top administrator with the Environmental Protection Agency claims proposed changes to the Clean Water Act won't harm agriculture, but understands that message is a difficult one to make in farm country. Deputy Assistant Administrator of the Office of Water with the EPA, Ken Kopocis, denies proposed changes to the Clean Water Act aim at extending the EPA's reach onto the farm. "We believe that the proposed rule would cover fewer waters than what the current rule covers. So, we do not believe that we're expanding jurisdiction," Kopocis tells Nebraska Radio Network in a telephone interview from this Washington, D.C. office. Yet, Nebraska farm groups don't believe such assurances and staunchly oppose the proposal.

**Waters rule attracts critics**, The (Ft. Dodge, IA) Messenger, 08/21/14. A controversial environmental rule would harm farmers and require permits for many regular farm practices, according to speakers at a meeting sponsored by the Iowa Drainage District Association and the MIDAS Council of Governments Wednesday morning at Fort Frenzy. The U.S. Environmental Protection Agency has said the rule is not an expansion of jurisdiction, and that many "myths" are being spread about it. The meeting was in opposition to a proposed new rule on the Waters of the United States by the EPA, which would clarify which waters are covered by the Clean Water Act.

**Candidates Talk Water**, Durango (CO) Herald, 08/20/14. Just as the Colorado Water Congress kicked off its summer conference Wednesday, the political waters already were churning as the state's U.S. Senate candidates traded jabs. "It is deeply disturbing that Congressman Gardner sided with out-of-state interests over the water needs of Colorado communities," Salazar said. "Almost two-thirds of Colorado's voters from every part of the state rejected Gardner's scheme. Coloradans deserve better than Congressman Gardner." "Managing the supply and availability of our water is one of the most critical natural-resource issues facing the United States and the world," Udall was expected to say, according to prepared remarks emailed to the Herald.

## **Opinion**

**Cut to the Chase: EPA Grabs for Dry Land - #Ditch The Rule**, Pulaski County (St. Robert, MO) Mirror. (op-ed), 08/20/14. Don Parrish: The Environmental Protection Agency's proposal to expand the scope of "navigable waters" subject to Clean Water Act jurisdiction was drafted, according to the agency, to reduce uncertainty. And that it does. It's very clear the proposed rule is designed to allow the federal government to regulate every place water flows when it rains, including small and remote "waters" and ephemeral drains and ditches. The "normal farming and ranching" exemption only applies to a specific type of Clean Water Act permit for "dredge and fill" materials. There is also no farm or ranch exemption from Clean Water Act permit requirements for what EPA would call "pollutants," but farmers would call plant nutrients and protection products. Exemptions or not, under the proposed rule, many common and important practices like weed control and fertilizer spreading will be prohibited in or near so-called "waters" without a Clean Water Act permit. Don Parrish is senior director of regulatory relations at the American Farm Bureau Federation

**Moving rural America forward**, The (Grand Coulee, WA) Star, (op-ed), 08/20/14. Author John Crabtree: The Center for Rural Affairs has stood firmly in favor of the Environmental Protection Agency's proposed Clean Power Plan as a vital first step in reducing carbon emissions from existing coal-fired power plants, addressing climate change, and creating opportunities for renewable energy development in rural America. And we have stood up for EPA's crucial Waters of the U.S. proposal to clear the regulatory waters surrounding the Clean Water Act and better protect rural America's most precious resource -- water. President Obama must also understand, however, that America's family farms, ranches and small towns do not stand still either. Nor do we intend to be left behind. The time has come for President Obama to fulfill his 2007 campaign pledge and close the loopholes mega-farms use to get around farm program payment limits, providing them the unlimited subsidies they use to drive up land costs and drive family farmers out of business.

**Walker: The EPA Overreach Trifecta**, The (Pittsburg, KS) Morning, 08/20/14. Morning Sun columnist Bruce Edward Walker: By trifecta, it's meant the EPA's revised "Waters of the U.S." definition, Clean Power Plan and tightened air-quality standards for ground-level ozone. If adopted, each promises a sock on the jaw for, respectively, employment, consumers, property owners and business/shareholder profits with nary any recognizable environmental benefit. Last week, I discussed the proposed "clarification" of the "Waters of the U.S." definition currently promulgated by the EPA. Apparently -- judging by comments the essay prompted -- there are those who would argue the agency never, ever (cross their heart and hope to die, pinky-swear, and on their honor) would abuse authority expanded from currently regulating "navigable waterways" to potentially any isolated wetland of their choosing. Horse feathers.

## **Blogs/Social Media**



**the Democrats** @usDemP 2h

Daines should support **Clean Water Act**: [bit.ly/1pSFChL](http://bit.ly/1pSFChL) #democrats



**Environment** @Environment24x7 5h

EPA claims it seeks clarity, not power grab in **Clean Water Act** proposal (AUDIO) - Nebraska Radio Network [dlvr.it/6ggNjX](http://dlvr.it/6ggNjX)



**Ann Kennedy** @AK\_TWEET 39m

HUGE GOVERNMENT POWER GRAB: #EPA, #ArmyCorps hijack #CleanWaterAct to expand regulatory authority [cowboybyte.com/32805/epa-corp](http://cowboybyte.com/32805/epa-corp)...



**Lou Mancini** @louatbb 1h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority - CowboyByte [shar.es/1nOekK](http://shar.es/1nOekK) via @sharethis



**Gary Oriani** @commandtech 1h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority [cattlenetwork.com/cattle-news/EP](http://cattlenetwork.com/cattle-news/EP)...



**cheryllaird** @fl85 1h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority » CowboyByte [po.st/iinTgZ](http://po.st/iinTgZ) via @CowboyByte



**K B Eric Riddle** @kblast523 1h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority » CowboyByte [po.st/xp5Vvd](https://po.st/xp5Vvd) via [@CowboyByte](https://twitter.com/CowboyByte)



**ELS** @envlegalservice 4h

EPA and Farmers square off over new **Clean Water Act** rule [npr.org/2014/08/20/341](https://www.npr.org/2014/08/20/341...) ...



**Environment** @Environment24x7 5h

EPA claims it seeks clarity, not power grab in **Clean Water Act** proposal (AUDIO) - Nebraska Radio Network [dlvr.it/6ggNjX](http://dlvr.it/6ggNjX)



**Cowboy Byte** @CowboyByte 8h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority [bit.ly/1qs1soS](https://bit.ly/1qs1soS) #cattlenetwork



**Trey Warnock** @tmwarnock 10h

Rep. Steve Southerland seeks to block **Clean Water Act** rule [on.tdo.com/VB5bIh](https://on.tdo.com/VB5bIh) via [@tdonline](https://twitter.com/tdonline) #Florida #agriculture



**Pat Goldsmith** @plgoldsmith 11h

[#Debunking](https://twitter.com/Debunking) the Farm Bureau's Attack on the **Clean Water Act** [resilience.org/stories/2014-0](https://resilience.org/stories/2014-0)



**Kari Hamerschlag** @KariHamerschlag 11h

Debunking the Farm Bureau's Attack on the **Clean Water Act** [shar.es/1nDfhe](https://shar.es/1nDfhe) via [@CivilEats](#)



**Science-Based RD2BE** @ScienceBasedRD 13h

Is the [@EPA #CleanWaterAct](#) update a land grab or clarification? Sound more like a clarification to me. [bit.ly/1pM7kgt](https://bit.ly/1pM7kgt) [#agchat](#)



**Clean Water Action** @cleanh2oaction 14h

ICYMI [@EcoCentered](#): Debunking the [#DitchTheRule](#) crowd - [bit.ly/1sZQ4EE](https://bit.ly/1sZQ4EE). It's time to [#ProtectCleanWater](#)



**Hajime** @ hajmie 16h

EPA Wades Into Water Fight With Farmers: The EPA wants to "clarify" the scope of its oversight of water under the **Clean Water Act**. Bi...



**Wendy Pope** @pinkalchemy 16h

The EPA wants to "clarify" the scope of its oversight of water under the **Clean Water Act**. Big farm groups... [n.pr/1uXQzIB](https://n.pr/1uXQzIB) [#NPR](#)



**Hajime** @ hajmie 16h

EPA Wades Into Water Fight With Farmers: The EPA wants to "clarify" the scope of its oversight of water under the **Clean Water Act**. Bi...



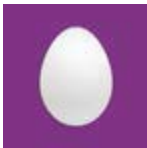
**SYLVESTER NORMAN** @RcokyAmjumo 16h

EPA Wades Into Water Fight With Farmers: The EPA wants to "clarify" the scope of its oversight of water under the **Clean Water Act**. Bi...



**Dorothy Lamar** @DorothyLamar 16h

EPA Wades Into Water Fight With Farmers: The EPA wants to "clarify" the scope of its oversight of water under the **Clean Water Act**. Bi...



**Conrad Stolze** @ConradStolze1 17h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority [dlvr.it/6gSqYY](https://dlvr.it/6gSqYY)



**DroversCattleNetwork** @DroversCTN 17h

EPA, Corps hijack **Clean Water Act** to expand regulatory authority [#agchat](#) [#ranchlife](#) [#ditchtherule](#) [cattlenetwork.com/cattle-news/EP](https://cattlenetwork.com/cattle-news/EP)...



**Brian C Shipley** @BrianCShipley 17h

At session on **Clean Water Act**, proposed US waters definition. [@EPAwater](#) notes SCOTUS interprets "navigable" beyond usual sense. [#NCSLsummit](#)



**Joe Sonka** @joesonka 17h

Grimes criticizing EPA overextending **Clean Water Act** rules. [#kysen](#)



**Dr. Richard Hanks** [@QuantumHumanity](#) 17h

Rep. Steve Southerland seeks to block **Clean Water Act** rule [on.tdo.com/VB5bIh](#) via [@tdonline](#)



**Lehigh ChE** [@LehighChE](#) 18h

RT [@ChemEngMag](#): Register for this webinar focusing on the [#EPA Clean Water Act](#), taking place 8/27: [bit.ly/1mq9Svx](#)



**Cerebellum Beverages** [@CerebellumH2O](#) 18h

Daines should support **Clean Water Act** [ow.ly/2M6qMu](#)



**NebraskaRadioNetwork** [@nebraskanews](#) 19h

EPA defends moves to change **Clean Water Act** against harsh criticism from Nebraska farm groups, politicians [nebraskaradionetwork.com/2014/08/20/epa\\_\\_\\_\\_\\_...](#)

10:33 AM - 20 Aug 2014 · [Details](#)



**Andrea Leon Grossman** [@AndreaLeon](#) 19h

RT [@WenonahHauter](#): A weakened **Clean Water Act** will cause more water crises like in Toledo. [bit.ly/1AxILrd](#) [@419in703](#) [@1Lolamarina](#)



**Beth Bond** [@BethSEGreen](#) 19h

We are also responsible for protecting water following the **clean water act** [#gec14](#)



**From:** [Hobbs, Karen](#)  
**To:** [Hobbs, Karen](#)  
**Subject:** FW: 082014 Clean Water Protection Rule Media Report - 26 items including Inside EPA, The Hill, Daily Caller...  
**Date:** Wednesday, August 20, 2014 10:22:55 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image007.png](#)  
[image008.png](#)  
[image016.png](#)

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FYI

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**From:** Patricia Butler [mailto:sagecommunications@earthlink.net]  
**Sent:** Wednesday, August 20, 2014 9:11 AM  
**To:** Waage, Melissa  
**Subject:** 082014 Clean Water Protection Rule Media Report - 26 items including Inside EPA, The Hill, Daily Caller...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 20, 2014

### News Coverage

**EPA Advisors Suggest Expanding 'Waters' Rule to oversee Groundwater**, Inside EPA, (see below), 08/19/14. Some members of a Science Advisory Board (SAB) panel are urging EPA to expand its controversial proposal clarifying when waters are subject to Clean Water Act (CWA) oversight to indicate that groundwater in many cases should be considered jurisdictional and subject to regulation, a plan that if adopted would increase opposition to the plan. Kolm writes that the proposed rule contains a "tremendous understatement of the role of groundwater" in connectivity, or "nexus," to larger navigable waters, and the proposed exemption excluding groundwater from the definition of "waters of the U.S." for the purposes of the proposed rule would leave jurisdictional waters "vulnerable." While the panelists are urging EPA to consider regulating groundwater, the approach may be difficult as EPA's CWA authority generally provides power to regulate surface waters.

**Rep. Polis to join Fat Tire brewer to back EPA water rule**, The Hill, 08/19/14. Rep. Jared Polis (D-Colo.) will join the Colorado-based brewery behind Fat Tire to promote the Environmental Protection Agency's proposal to redefine its jurisdiction over bodies of water. Polis, New Belgium Brewing Co. and the American Sustainable Business Council will host an event Thursday in Fort Collins, Colo., to make the business case for the "waters of the United States" rule, proposed earlier this year to clarify the streams, lakes and ponds where EPA can enforce the Clean Water Act. "In order for us, and many other businesses, to be successful, we must have clean water," Jenn Vervier, New Belgium's director of sustainability and strategy, said in a statement.

**Report: EPA Exceeds Its Authority With Proposed Rules**, The Daily Caller, 08/19/14. Congress should use the appropriations process to reassert its authority over the Environmental Protection Agency, according to a Heritage Foundation [issue brief](#) released Tuesday. The report, written by scholar Daren Bakst, identifies three issues on which the EPA has proposed rules and regulations that exceed its authority. In all three cases, Bakst recommends that Congress prohibit the agency from using its funding to implement the proposals. According to the report, "the EPA is using the regulatory process to require greenhouse gas emission reductions even as Congress has been unwilling to take such drastic actions."

**He Says EPA Policy Hurts Florida Business**, Daily Business Review, 08/19/14. Florida Congressman Steve Southerland and Agriculture Commissioner Adam Putnam joined business groups in support of Southerland's bill aimed at curbing federal regulatory power over water bodies. Southerland said his bill, the Waters of the United States Regulatory Overreach Protection Act (H.R. 5078), is designed to block a power grab by the Environmental Protection Agency. Surrounded by representatives of Associated Industries of Florida, the Florida Chamber of Commerce, the Florida Farm Bureau and other business groups, Southerland and Putnam said the state is doing a good job on water policy but that enforcing the EPA rule, known as the "Waters of the U.S.," would hurt the state's economy.

**Florida's Agricultural commissioner wants the Environmental Protection Agency to back off Florida's bodies of water**, WEAR-TV/Pensacola, FL., 08/18/14. Florida's Agricultural commissioner wants the Environmental Protection Agency to back off Florida's bodies of water. The state says a new rule from the Environmental Protection Agency could wind up costing Florida millions of dollars. Florida Agriculture Commissioner Adam Putnam joined North Florida Congressman Steve Southerland Monday. The two stood with other policy groups and were trying to send a message to the Environmental Protection Agency: nobody knows Florida's water better than Florida.

**Sportsmen Fly to DC to Protect U.S. Rivers**, Colorado Trout Unlimited, 08/19/14. On March 25<sup>th</sup> of this year the EPA and the Army Corp proposed a rule for public comment. That proposal makes a strong effort to more clearly define what waters are covered and equally, if not more important, what waters are not covered. However, the EPA needs to do an even better job of providing clarity in all of the descriptions, classifications and definitions. Furthermore it is vital that flexibility be incorporated that allows for regional considerations. Water issues and water law in the Western United States force us to address issues in ways that can be entirely different than those found in States that have an abundance of water and do not manage water through a prior appropriation system.

## **Opinion**

**Advancing the Regulation Rewind**, The (Geneva) Nebraska Signal, (op-ed), 08/19/14. Rep Adrian Smith: The EPA is also once again attempting to strike the "navigable" from the Clean Water act. Congress included the word "navigable" in the Act more than 80 times to preserve state and local water rights. Ag groups, resource districts, water managers, and Nebraskans from many different backgrounds have reach out in opposition to this rule. Adrian Smith represents Nebraska's third congressional district.

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## **Blogs/Social Media**

**EPA proposed rule for navigable waters**, 08/19/14. Senator Jeffery Moran, R-KS pans the WOTUS rule. <https://www.youtube.com/watch?v=wp4r2yP7ulo>

**Proposed EPA regulation of "Waters of the U.S." & its impact to counties**, 08/18/14. On April 21 the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) jointly released a new proposed rule – Definition of Waters of the U.S. Under the Clean Water Act – that would amend the definition of "waters of the U.S." and expand the range of waters that fall under federal jurisdiction. <https://www.youtube.com/watch?v=UuhvERUIs7M>



**Wenonah Hauter** @WenonahHauter 35m

A weakened **Clean Water Act** will cause more water crises like in Toledo. [bit.ly/1AxILrd](http://bit.ly/1AxILrd)



**NebraskaRadioNetwork** @nebraskanews 1h

EPA claims it seeks clarity, not power grab in **Clean Water Act** proposal (AUDIO)  
[goo.gl/fb/VnE6iQ](https://goo.gl/fb/VnE6iQ)



**TaMaryn Waters** @TaMarynWaters 21h

Rep. Steve Southerland seeks to block **Clean Water Act** rule [on.tdo.com/VB5blh](https://on.tdo.com/VB5blh) via [@tdonline](https://tdonline.com)



**Rik** @jollymonsouth 2h

EPA's proposal to protect clean water does not change the **Clean Water Act** exemption for farm ponds [#DitchtheMyth](https://twitter.com/DitchtheMyth) | [@EPAWater](https://twitter.com/EPAWater)



**Rik** @jollymonsouth 2h

Normal farming activities like planting crops and moving cattle don't need permits under the **Clean Water Act** [#DitchtheMyth](https://twitter.com/DitchtheMyth) | [@EPAWater](https://twitter.com/EPAWater)



**DWCBC** @DWCBC 10h

Four decades after Congress passed the **Clean Water Act**, the powers-that-be still can't agree about how to apply... [fb.me/3GC8VPPPk](https://fb.me/3GC8VPPPk)



**Chemical Engineering** @ChemEngMag 12h

Register for this webinar focusing on the [#EPA](https://twitter.com/EPA) **Clean Water Act**, taking place 8/27: [bit.ly/1mq9Svx](https://bit.ly/1mq9Svx)



**Bossy Adagio** @adagioforstring 16h

.@DailySignal .@2BarkingWesties @EPA .@darenbakst "EPA ...has for decades tried to expand its authority under the **Clean Water Act** (CWA)"



**MnAFPM** @MnAFPM 18h

Ditch the Myth, proposed changes to the **Clean Water Act**: [ow.ly/Av1WR](https://ow.ly/Av1WR) #ditchthemyth



**Ray Myers** @ RayMyers 20h

We need to get rid of this guy - Rep. Steve Southerland seeks to block **Clean Water Act** rule [ow.ly/AuuKO](https://ow.ly/AuuKO)



**iowaccci** @iowaccci 21h

"**Clean Water Act** should not instill fear in factory farmers if they are not polluting our water"-CCI mbr [#cleanwaterfight](https://twitter.com/cleanwaterfight)



**Katie B** @Katie\_m\_B 21h

Retired farmer to [@iowadnr](https://twitter.com/iowadnr) "why the reluctance to enforce the **Clean Water Act** against environmental violators?"



**Byron Dobson** @byrondobson 23h

Rep. Steve Southerland seeks to block **Clean Water Act** rule [on.tdo.com/VB5blh](https://on.tdo.com/VB5blh) via [@tdonline](https://twitter.com/tdonline)



**Debra Hendrix** @debrahendrix 23h

Rep. Steve Southerland (R) seeks to block **Clean Water Act** rule [on.tdo.com/VB5blh](https://on.tdo.com/VB5blh)



**Don't Worry** @aboutathing 22h

Debunking the Farm Bureau's Attack on the **Clean Water Act** [shar.es/1nioBB](https://shar.es/1nioBB) via [@CivilEats](#)



**David Montgomery** @ArgusMontgomery 21h

Noem: "The EPA has role in enforcing the **Clean Water Act** and the Clean Air Act, but this EPA has gone far beyond..."



**Newburg Equipment** @NewburgEquip 1h

top: EPA, Corps Hijack **Clean Water Act** to Expand Regulatory Authority - States could be facing... [j.mp/1rx8vyz](https://j.mp/1rx8vyz)

Daily News / Inside EPA

## EPA Advisors Suggest Expanding 'Waters' Rule To Oversee Groundwater

Posted: August 19, 2014

Some members of a Science Advisory Board (SAB) panel are urging EPA to expand its controversial proposal clarifying when waters are subject to Clean Water Act (CWA) oversight to indicate that groundwater in many cases should be considered jurisdictional and subject to regulation, a plan that if adopted would increase opposition to the plan.

"In no cases should groundwater that is shown to be connected to "waters of the US" be exempt," Kenneth Kolm, of Hydrologic Systems Analysis, Inc., in Golden, CO, writes in [Aug. 14 preliminary comments](#) filed by individual members of a panel that is conducting an informal review of the proposal.

Kolm writes that the proposed rule contains a "tremendous understatement of the role of groundwater" in connectivity, or "nexus," to larger navigable waters, and the proposed exemption excluding groundwater from the definition of "waters of the U.S." for the purposes of the proposed rule would leave jurisdictional waters

"vulnerable."

A second panelist, David Allan of University of Michigan, writes in his comments that the "exclusion is a concern, and should be recognized as such," adding that groundwater, or subsurface drainage systems, is an important pathway for some nutrients and pollutants that may end up through nonpoint sources in downstream traditionally navigable waters, or those considered traditionally jurisdictional.

While the panelists are urging EPA to consider regulating groundwater, the approach may be difficult as EPA's CWA authority generally provides power to regulate surface waters.

EPA and the Army Corps of Engineers in their jointly issued proposed rule, published in the April 21 *Federal Register*, seek to clarify when smaller, isolated and other waters are subject to the CWA following Supreme Court tests that created confusion about when they are subject to regulation.

The agencies are taking comments on the proposal through Oct. 20. As part of the review, the SAB panel earlier this year reviewed a related draft study on waters' "connectivity," which is intended to support the proposed rule. The panel is also slated to conduct an informal review of scientific and technical basis of the regulatory proposal for the first time during an Aug. 20-21 teleconference.

The panel's comments on the proposed rule will then be provided to the chartered SAB, which will craft advice for EPA on improving the basis for the rule.

The proposed rule generally follows the test offered by Justice Anthony Kennedy in *Rapanos v. United States*, where he ruled in a concurring opinion that waters that share a "significant nexus" to navigable waters can be regulated under the water law. By contrast, the plurality opinion, written by Justice Antonin Scalia, held that only "relatively permanent" water bodies that connect to traditional navigable waters and wetlands that have a "continuous surface connection" to such relatively permanent water bodies, are jurisdictional.

Following Kennedy's approach, the proposed rule finds that waters sharing a connection that "significantly affects the chemical, physical, or biological integrity" of a jurisdictional waterbody may also be protected under the CWA. To bolster this approach, the proposal is based on the agency's "connectivity" study -- which the same SAB panel reviewed earlier this year -- which defined when waters are connected and may be subject to regulation.

The result is that the proposal would assert default jurisdiction over tributaries and waters located in riparian areas and floodplains, while assessing "other" waters outside of riparian and flood zones on a case-by-case basis to determine if they share a significant nexus to downstream waters.

### **'Shallow Subsurface Connections'**

As part of that, the agency said that waters that are connected by groundwater -- waters with "shallow subsurface connections" to traditionally navigable waters -- may be jurisdictional but did not explicitly hold that the groundwater itself is jurisdictional.

The proposed rule has been met with considerable backlash from industry, states, GOP lawmakers and in particular agriculture groups who charge it would massively expand the water law's reach beyond what the high court intended, resulting in "land use" regulations and new permitting burdens for landowners and a multitude of industry sectors.

While EPA's proposal precludes groundwater from jurisdiction, many critics are already concerned that the agency may be leaving the door open to regulating subsurface waters.

For example, Tabby Waqar, environmental policy program manager for National Association of Home Builders, pointed out during a June 26 Heritage Foundation panel discussion that though the proposed rule suggests waters can be found jurisdictional through a "shallow subsurface connection," there is no discussion of "what that is, where it ends, and where groundwater begins" particularly in states like Florida with extensive groundwater systems.

But the SAB panelists' remarks concerning groundwater could intensify the critics' concerns. Kolm, for example, says that precluding vast groundwater systems -- like those in Florida -- from federal oversight could limit protections for important resources and provide justification for dropping proposed language exempting

groundwater from the proposal.

"This is a problem because regional ground water flows commonly interact with the surface environment at sinks and springs," Kolm writes. "For example, the Floridan aquifer underlies all of Florida as well as portions of Mississippi, Alabama, Georgia, and South Carolina and commonly interacts with the surface environment through sinks, springs, and outcrops."

And Aldous writes, noting the exclusion as jurisdictional waters, "while they are not waterbodies as defined here, it is important to recognize that activities that occur on the surface above those subsurface flows, such as ground disturbance (e.g., logging, road construction), introduction of contaminants (e.g., oil spills, application of agricultural chemicals), or groundwater abstraction (e.g., pumping shallow wells) will significantly affect the integrity of the downstream receiving waters."

### **Graded Approach**

In addition to the groundwater issue, some panelists are also weighing in on how EPA should adopt a "graded" approach for determining nexus that would narrow the proposal's reach and better determine the "significance" of a nexus, as opposed to considering all connections equally.

Following its review of the connectivity study, the SAB panel had recommended that the agency adopt such a "graded" approach. Industry and state sources [now hope](#) the informal rule review will help refine the advice, though the sources also said even adopting the the gradient approach is unlikely to help the agency defend the rule in a court challenge because "significant nexus" is a legal concept, and litigation challenging the rule will center on whether it is beyond the reach of the CWA.

To that effect, some of the panelists appear in their comments to consider how to make such recommendations. For example, Allison Aldous, of The Nature Conservancy, writes in her comments, "Specific scientifically-grounded, objective methods must be put in place to draw the line between those waters having or not having a significant nexus to other jurisdictional waters." But Aldous adds that the agencies are likely to issue technical guidance after the rule is finalized, noting that evaluating the technical accuracy of the "significant nexus" definition is difficult without a clear set of criteria to be used in field determinations.

And Genevieve Ali, of University of Manitoba, writes in her comments that the proposed definition of "significant nexus" is "rather vague and subject to interpretation," saying it is important to clarify the meaning of the word "significant."

"Is the significance of a nexus evaluated in terms of the magnitude of connections, frequency, duration or all of the above?" Ali writes. "What about predictability?" -- *Bridget DiCosmo* ([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com)) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )



**From:** [Devine, Jon](#)  
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FYI

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## Clean Water Protection Rule Media Report

### Prepared for NRDC and Clean Water Action

August 14, 2014

### News Coverage

**Texas Attorney General and gubernatorial candidate Greg Abbott has a thing about the EPA**, Daily Kos, 08/13/14. Last year, shortly before Texas Attorney General Greg Abbott announced he was running for governor, the Republican bragged at a meeting of the national tea party group FreedomWorks about his typical day: "I go into the office, I sue the federal government and I go home." That may have gotten him some laughs, but he wasn't kidding. Abbott has sued the Obama administration at least 31 times, including the Environmental Protection Agency 17 times. While he hasn't yet sued over the issue, Abbott is in yet another tangle with the EPA that could lead to a lawsuit. This time it's over the EPA's proposed Waters of the United States rule under the Clean Water Act. The proposed rule has a ways to go before it is finalized. The public comment period continues until October. On Monday, Abbott sent a letter to the EPA on the matter.

**Stepping Up to the Table**, Marshall (MN) Independent, 08/14/14. The EPA's proposed changes to the clean water act was another hot topic at field day. Peterson, a Democrat in Minnesota's 7th District, said the new rules would put up more roadblocks for tiling fields. He said that he doesn't believe that the EPA has the authority to change the rule and that if they tried "we will stop them and take that authority away



from them." The amount of agencies creating the rules came under fire more than the regulations themselves. "There are three hoops to jump through at the county, state and federal level," Goodwin said. Peterson said that it currently takes the authority of four different agencies to decide what a wetland is, and saying that "this is another example of urban people not understanding what is going on out here in the real world."

**Hoosier Congressman Addresses EPA Water Rule on Indian Farm**, Farm Progress, 08/14/14. The meeting was about the proposed rule issued by the Environmental Protection Agency which would redefine "waters of the U.S." It dates back to the Clean Water Act in the 1970s. The proposed rule could give EPA and the U.S. Army Corps of Engineers far more power, because it would extend the type of lands that fall under waters of the U.S., putting them under their federal jurisdiction. Some of those waters might turn out to be land on your farm that you have no idea how someone could contend was a water of the U.S. under this rule. "Many of our regulators have become detached from reality," Messer says. He is seeking re-election this year. "Regulatory agencies are acting like a fourth branch of government, and they're increasing their power all the time."

**Waters of the U.S. fight recalls days of Swampbuster Rules in Farm Bill**, Farm Progress, 08/14/14. Justin Schneider, an attorney for Indiana Farm Bureau, Inc., who specializes in working with agencies on rules related to water and water quality, would argue the current proposed EPA "Waters of the U.S." rule borders on a nightmare. The EPA wants to rework definitions under the Clean Water Act of 40 years ago and claim jurisdiction over a much larger amount of land as "waters of the U.S." than it has previously. The U.S. Army Corps of Engineers also has jurisdiction over waters of the U.S. "We get cooperation from the Region V office in Chicago, and they at least understand our concerns," he adds. "But at higher levels within the agency they don't seem to even understand why as farmers and farm groups we're concerned about this issue."

**NCBA Shows Scope of WOTUS Rule**, Oklahoma Farm Report, 08/13/14. NCBA Environmental Counsel Ashley McDonald said there is a new tool in the effort to battle the WOTUS proposal. "We partnered with other ag groups here in town to develop some maps where we think really highlight the extent of EPA's proposed regulation and exactly how far it goes and how much acres it covers and how many stream miles it really covers," McDonald said. "Now these maps they are really impressive, they show different states and exactly show the difference between stream mileage when you add in those ephemeral streams, which are those ditches and smaller waterways that only hold water during a rainfall event." These maps are excellent way to show local, state and federal officials exactly how the pervasive WOTUS proposed rule may be when it comes to US agriculture and rural landowners

**National Corn Growers Urge Farmers to Weigh in on WOTUS**, Oklahoma Farm Report, 08/13/14. The National Corn Growers Association is reminding farmers to submit their comments on 'Waters of the US' proposal. NCGA has expressed concern that this rule could significantly expand the jurisdiction of the Clean Water Act and creates more uncertainty as to what will be subject to federal regulation. NCGA has many serious concerns regarding the impact the proposed rule could have on U.S. farmers.

## **Opinion**

**EDITORIAL: Muddying the Waters: Proposal has potential to grant almost unlimited jurisdiction to bureaucrats and trample states' rights and individual private property rights**, Lufkin (TX) Daily News, (editorial), 08/14/14. If you read the Federal Registry last April 21, you know the Environmental Protection Agency proposed a rule the agency claims would "clarify" the water resources the EPA can control. Currently the EPA basically controls "navigable" waterways, as defined by the Clean Water Act, a fairly easy to understand definition. If you can take a boat up a creek, it's a waterway, already an extremely broad definition. However, Supreme Court rulings in 2001 and 2006 muddled the waters over what the agency controls. The EPA sees this as an opportunity to expand its control. What is not so obvious are areas that would require "individual analysis of significant nexus" or lands that could come under the new definitions includes the remainder of the United States. That basically includes every wash, gully or cleft that allows gravity to carry rainwater runoff away.

**Time to submit comments on EPA water rule**, Bandera County (TX) Courier, (op-ed), 08/14/14. Richard

Thorpe III: While Congress gave the EPA authority over "navigable" waterways, the EPA is again trying to abuse and expand its authority. The agency announced a new rule proposal in March that would redefine "waters of the US" to expand the water and land that falls under its jurisdiction.

This proposal amounts to the largest land grab in history. Essentially, it would give the agency control over all bodies of water. This includes ponds, streams, creeks, ditches, puddles, man-made conveyances, wet areas on pastures, etc. Basically, the federal government would control every drop of water in the country. The EPA doesn't want to pass this rule through regular order in Congress. They have tried this twice and failed. Instead, the agency plans to bypass Congress and force us to comply through a rulemaking process. Richard Thorpe is first vice president of the Texas and Southwestern Cattle Raisers Association.

**EPA shouldn't be telling us how to farm**, New Hampton (IA) Tribune, (letter to the editor), 08/14/14.

Chickasaw County (IA) Farm Bureau: FACT: The Waters of the U.S. proposed rule lets EPA regulate small ponds, ditches, rainwater flowing through low spots and isolated wet spots-as if they were navigable waterways. The proposal is a serious threat to farming and ranching, homebuilding, energy production and other land use. FACT: The proposed rule would allow EPA to tell farmers how to farm — or even keep them from farming. EPA has claimed to exempt 56 specific conservation practices, but countless routine farming activities like applying fertilizer or manure, or even pulling weeds would need a permit. Congress never meant to require federal permits for ordinary farming and ranching.

## **Blogs/Social Media**

**Abbott threatens to sue EPA ... again**, Houston Press blog, 08/14/14. Abbott's just the latest to wade into the decade-long fight over which streams and wetlands should qualify for protection under the Clean Water Act--something EPA hopes to finally settle with its proposed rule change (you can read all 86 pages of it [here](#)). Abbott and other critics bristle that EPA's proposal would cover some seasonal and intermittent waterways, which dry up during part of the year, if such waterways connect to a larger hydrologic system when it rains or floods.



**brendan mclaughlin** [@brendanmcl](#) 9h

Why the **clean water act** should matter to all outdoor enthusiasts: [ow.ly/AiesE](#)



**Lynn Thorp** [@LTCWA](#) 16h

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**Ben Duquette** @benduquette 17h

Waste less (water), pollute less. [nrdc.org/water/files/cl...](http://nrdc.org/water/files/cl...) ... [#waterconservation](#)



**America Votes** @AmericaVotes 22h

Candidate for [#TXGov](#) Greg Abbot demands EPA scale back on **Clean Water Act** updates. Really. [goo.gl/54b1O3](http://goo.gl/54b1O3)



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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 13, 2014

### News Coverage

**Texas AG Abbott threatens to sue EPA over rule change**, Associated Press, 08/12/14. Texas Attorney General Greg Abbott is poised for another clash with federal environmental regulators, this time over proposed water protections. The EPA proposed expanding the definition of federal waters to include seasonal and rain-dependent waterways. The agency said the move would stiffen penalties for polluting those waterways that supply drinking water to more than 11 million Texans. This dispute comes on the heels of a long-running battle between the EPA and Texas over air pollution issues.

**EPA Advisors Seek Regulatory Clarity For Implementing 'Waters' Rule**, Inside EPA, (see below), 08/12/14. EPA's local government advisors are urging the agency to provide greater clarity on critical definitions in its proposed Clean Water Act (CWA) jurisdiction rule in order to avoid regulatory confusion and ensure consistent field implementation of the rule among regulators in EPA's 10 regions and the Army Corps of Engineers' districts. "It needs to be crystal clear, because the point we're at right now, it's not with the public," one Local Government Advisory Committee (LGAC) source tells *Inside EPA* of recent listening sessions on the rule that the panel held across the United States. At the sessions, officials from industry,

agriculture, local water management districts and other groups have outlined their concerns over what they say are ambiguities in the proposed rule. The concerns add to [pressure on EPA](#) from some "friendly" agricultural sector groups and states to significantly revise the proposed rule in order to address regulatory confusion that the policy could cause. The rule defines the waters of the United States subject to CWA jurisdiction, but critics say its reach is too broad.

**[A new environmental dispute brews between feds and Texas over water](#)**, Miami Herald, 08/12/14.

Foretelling a new environmental battle between state and federal regulators, Attorney General Greg Abbott this week demanded the U.S. Environmental Protection Agency back down from a proposal to expand the definition of federal waters to include seasonal and rain-dependent waterways. EPA officials say the proposal would stiffen penalties for polluting such waterways. More than 11 million Texans, get drinking water from sources that depend, in part, on the intermittent streams. "It's important to protect the whole network of streams that flow into rivers and oceans," said Ellen Gilinsky, a senior adviser for water at the federal agency. "This rule ensures clean waters for Texans to drink and recreate in, clean water for businesses, and clean water for farmers."

**[EPA trying to expand regulatory authority over 'navigable waters,' Texas AG says](#)**, Washington (DC) Examiner, 08/12/14. The Environmental Protection Agency is proposing new regulations that would expand the agency's regulatory authority over navigable waters, a move Texas Attorney General Greg Abbott opposes. Under the regulations proposed by the EPA and Army Corps of Engineers, the definition of "navigable waters" will include ponds on private property, stock tanks and dry ditches. Abbott submitted formal comments to the EPA and the Corps of Engineers on Monday, opposing the proposed regulations and explaining that the EPA is attempting to regulate private property that clearly falls outside the agency's jurisdiction. "The EPA has no authority to regulate dry ditches and stock tanks on private property—but that is exactly what the Obama Administration is trying to achieve under new rules proposed by the EPA and the Corps of Engineers," Abbott wrote.

**[Abbott threatens EPA on proposed waterways rule](#)**, San Antonio (TX) Express News, 08/12/14. "It's going to really, I think, hinder operations; it's going to require us to ask permission to do things on land that we've always done in our common farming practices and could add costs and delays," said Jay Bragg of the Texas Farm Bureau. But others say the rules would only restore protections that dwindled after the U.S. Supreme Court twice ruled the federal government overstepped its bounds. The rulings heightened confusion over how to define federally protected waterways. "I see the attorney general's letter as part of a larger plan to discredit the EPA and resist its ability to protect health and the environment," said David Foster of Clean Water Action. Foster noted it wouldn't be the first time Abbott sued the EPA.

**[Texas Attorney General Opposes Proposed EPA Regulations](#)**, San Angelo (TX) News, 08/12/14.

Texas Attorney General Greg Abbott is firing back at Washington over claims that the Environmental Protection Agency's *Clean Water Act* authority extends to stock tanks, small ponds and even dry ditches. "The EPA has no authority to regulate dry ditches and stock tanks on private property—but that is exactly what the Obama Administration is trying to achieve under new rules proposed by the EPA and the Corps of Engineers. First, the EPA has attempted to regulate 'emissions' from schools, churches and apartment buildings, and now they are claiming they can micromanage dry ditches on private property.

**[State Threatens to Challenge EPA Water Proposal](#)**, TWC Waco (TX) News, 08/12/14. David Foster with Clean Water Action is working to protect dried-up creek beds under proposed changes by the Environmental Protection Agency. "Seventy-five percent of stream miles in Texas run dry part of the year, in particular when we're having a drought like the one we are," he said. The EPA wants to revise the language in the Clean Water Act, giving it jurisdiction over any water that eventually flows down into larger bodies used for drinking water. "We don't believe as an organization that you can protect the larger waterways without protecting the tributaries, any more than you can protect your arteries without protecting your veins and capillaries," Foster said.

**[Texas Threatens EPA Lawsuit](#)**, DTN/The Progressive Farmer, 08/12/14. The state of Texas will sue the EPA and win if EPA does not withdraw the proposed Clean Water Act rule, Texas Attorney General Greg Abbott warned in a comment letter to the agency Monday. One of the common concerns coming from opponents of EPA's proposed Clean Water Act rule is that it trumps constitutionally protected state powers

in favor of federal expansion. Abbott joins a growing chorus of state attorneys general who are expressing concern about the proposed rule. Just last week, 15 other state attorneys general asked EPA to withdraw the interpretive rule that identifies 56 conservation practices that are exempt from the Clean Water Act.

**Abbott Threatens EPA With Lawsuit Over Proposed Water Regulations For "Ditches**, Texas Public Radio, 08/12/14. Texas Attorney General Greg Abbott is threatening to sue the Environmental Protection Agency for a new set of proposed water protections. Abbott wants the EPA to scrap a plan that expands the definition of federal waterways. The EPA wants to include seasonal and rain-dependent waterways. The agency said it would stiffen penalties for polluting those waterways that supply drinking water.

**AG Greg Abbott continues his fight against the Environmental Protection Agency**, KLBJ News Radio/Austin, TX, 08/12/14. Attorney General Greg Abbott and the Environmental Protection Agency are once again at odds. The latest fight has to do with the EPA's latest rule change under the Clean Water Act. Environmentalist David Foster from Clean Water Action says the EPA is trying to cut pollution by restoring Federal Jurisdictions to include streams and wetlands that dry up part of the year. General Abbott fired a letter to the EPA charging the rule. He says it would erode property rights and have a devastating effect on landowners in Texas.

## **Opinion**

**If it's wet, EPA wants to regulate it**, Washington (DC) Examiner, (op-ed), 08/12/14. Ron Arnold: Few outrages perpetrated by President Obama's Environmental Protection Agency can match its proposed rule titled "Definition of 'Waters of the United States' Under the Clean Water Act." It would remove "navigable" from American water law and take federal command of all "waters of the United States," or WOTUS. It redefines "waters" as nearly everything that could get wet, including most of the land in America. It redefines "waters" as nearly everything that could get wet, including most of the land in America. Under WOTUS, every seasonal stream bed, puddle and ditch in the nation would be ruled by the EPA and the Army Corps of Engineers' armed enforcers, bypassing Congress and sidestepping the U.S. Supreme Court in the process. Washington Examiner columnist Ron Arnold is executive vice president of the Center for the Defense of Free Enterprise.

**Commentary: Proposed EPA 'waters' rule hangs farmers out to dry**, Ag Alert, (op-ed), 08/13/14. Don Parrish: The U.S. Environmental Protection Agency proposal to expand the scope of "navigable waters" subject to Clean Water Act jurisdiction was drafted, according to the agency, to reduce uncertainty. It's very clear the proposed waters of the U.S. rule is designed to allow the federal government to regulate every place water flows when it rains, including small and remote "waters" and ephemeral drains and ditches. We all know that water flows downhill and that at some point, some of that water eventually finds its way into a creek, stream or river. Yet, based on nothing more than the flow of rainwater along a natural pathway across the land, the EPA wants to call vast areas of otherwise dry land "tributaries" and therefore "navigable waters." Don Parrish is a senior director of regulatory relations for the American Farm Bureau Federation.

## **Blogs/Social Media**

**Evan Swaak: Proposed EPA waters rules not a power grab**, Augusta (GA) Free Press blog, 08/12/14. You recently ran a letter about attorneys writing about a rule that the EPA is currently proposing that would restore protections to streams and wetlands that impact Georgia's rivers. Despite the benefits that cleaner streams and wetlands could bring to the Savannah river, people known for polluting our streams like the oil and gas industry seem intent on painting this as a power grab. I'd encourage interested Georgians to read the rule and some of the fact sheets on the EPA's website. This is a great step forward for our rivers and drinking water and I urge readers to do their own research and stand up for clean rivers in Georgia. Evan Swaak is a native and resident of Atlanta, Ga., conducting research on the proposed EPA water rules for Environment Georgia.







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Why is the Farm Bureau up in arms re: proposed federal rule to clarify the **Clean Water Act**? [@EcoCentered](#) reports: [bit.ly/1pMRmBB](http://bit.ly/1pMRmBB)



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Ray Scott agreed. "[@TheTRCP](#): Clean Water Act should matter to all sportsmen [ow.ly/Ag4og](http://ow.ly/Ag4og)  
[#protectcleanwater](#)"

## Inside EPA - Daily News

# EPA Advisors Seek Regulatory Clarity For Implementing 'Waters' Rule

Posted: August 12, 2014

EPA's local government advisors are urging the agency to provide greater clarity on critical definitions in its proposed Clean Water Act (CWA) jurisdiction rule in order to avoid regulatory confusion and ensure consistent field implementation of the rule among regulators in EPA's 10 regions and the Army Corps of Engineers' districts.



"It needs to be crystal clear, because the point we're at right now, it's not with the public," one Local Government Advisory Committee (LGAC) source tells *Inside EPA* of recent listening sessions on the rule that the panel held across the United States. At the sessions, officials from industry, agriculture, local water management districts and other groups have outlined their concerns over what they say are ambiguities in the proposed rule.

The concerns add to [pressure on EPA](#) from some "friendly" agricultural sector groups and states to significantly revise the proposed rule in order to address regulatory confusion that the policy could cause. The rule defines the waters of the United States subject to CWA jurisdiction, but critics say its reach is too broad. LGAC, which primarily consists of local, state, and tribal elected and appointed officials, hosted the sessions as part of its Protecting America's Waters workshop, with the most recent taking place July 10 in Atlanta.

The advisory board is considering whether and how to craft recommendations for EPA to clarify how regulators in the field are to interpret and implement critical terms in the rule the agency proposed April 21, such as "uplands," "ditches," and "riparian" zones, given repeated concerns they have heard from stakeholders.

The LGAC source says the upcoming recommendations -- which could include suggested regulatory language for clarifying the rule, will likely focus on implementation, adding, "we need to be crystal clear in implementation of the rule" while still giving regions enough flexibility to adapt the rules to their respective geography.

"They need the flexibility to recommend what works in their region," the source says, but "we need a rule that can be implemented or even enforced" in a consistent manner across the United States.

The workgroup expects to hold three more listening sessions this summer, in Tacoma, WA, Boston and Denver, and to begin working on drafting its recommendations in October, which will then be submitted to the full LGAC, the source says. The full panel would then review the suggestions before sending them to EPA.

### **Priority Issues**

LGAC's Protecting America's Waters panel is charged by EPA with developing advice for the agency to help in identifying priority issues related to the rule and areas where more clarity is needed on how local waters will be affected and on how to help local government agencies understand how the rule would apply to them.

Additionally, EPA's charge to the panel asks, "Are there additional policy discussions that could help address local questions about implementation, such as ditch maintenance or green infrastructure?"

A second LGAC source adds that the group has asked local water managers to suggest regulatory language that would go toward addressing their concerns about effects on stormwater systems and other features, saying, the "problem seems to be lying with everyone involved needing to understand and interpret [the rule] the same way."

That source says that there may be a disconnect between EPA headquarters staff that crafted the rule and Corps district field regulators responsible for making jurisdictional determinations after the final rule is issued. That disconnect needs to be addressed before the agency finalizes the rule, the source adds.

EPA and the Corps have faced an onslaught of criticism over the proposed rule seeking to clarify the scope of the CWA, which was released April 21 and which they are taking comment on through Oct. 20.

Concerns have come from a wide swath of sectors, even some agriculture groups and local regulators sympathetic to EPA that, if the rule is finalized as proposed, it would further confuse the already-uncertain landscape of CWA jurisdiction.

To address such concerns, the agency has sought to assure local regulators on at least some of the concerns, including that it will not subject stormwater channels and green infrastructure features, which the agency has been encouraging municipalities to install, to regulation.

But a third LGAC source says "we felt the green infrastructure concerns were unwarranted," adding that they had their legal team examine the proposal and "we feel comfortable with it," despite having made significant green infrastructure investments in that jurisdiction. -- *Bridget DiCosmo* ([bdicosmo@iwpress.com](mailto:bdicosmo@iwpress.com))

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**Subject:** 081214 Clean Water Protection Rule Media Report - 16 items including HuffPo and AP ...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 12, 2014

### News Coverage

**The 'Perfect Storm' Behind Toledo's Toxic Tap Water**, Huffington Post, (op-ed), 08/11/14. Terrance Heath: On the federal level, conservatives have limited the government's ability to regulate agricultural pollution. The Supreme Court, in a 5-4 conservative-liberal split with Justice Anthony Kennedy joining the conservative bloc, questioned the scope of the Clean Water Act. In a 2006 ruling, the Court limited regulators' ability to protect wetlands -- which filter out phosphorus before it reaches lakes -- and other waterways not directly connected to streams covered by the Act. Since then, Republicans in Congress have blocked an effort to expand the Clean Water Act's authority, claiming it infringes on private property rights and threatens farmers. Republican-led state and local governments have done little or nothing to regulate agricultural pollution. Terrance Heath is online producer and blogger, Campaign for America's Future.

**Texan Abbott threatens to sue EPA over rule change**, Associated Press/Austin, TX, 08/12/14. Texas Attorney General Greg Abbott is poised for another clash with federal environmental regulators, this time over proposed water protections. The Austin American-Statesman reports that Abbott wants the U.S. Environmental Protection Agency to scrap a proposal to expand the definition of federal waterways. The Republican gubernatorial candidate submitted a written public comment to the federal agency Monday. He threatened to sue if the proposal isn't withdrawn. The EPA proposed expanding the definition of federal

waters to include seasonal and rain-dependent waterways. The agency said the move would stiffen penalties for polluting those waterways that supply drinking water to more than 11 million Texans.

**Attorney General Abbott opposes proposal to regulate “Ditches,”** Your Houston (TX) News, 08/12/14. Under the Clean Water Act, the EPA only has authority to regulate “navigable waters.” Under new regulations proposed by the EPA and the Army Corps of Engineers, the Obama Administration is proposing to dramatically expand the EPA’s regulatory authority by claiming that “navigable waters” includes solitary ponds on private property and even what the EPA’s own proposal refers to as “ditches.” Today Attorney General Abbott submitted formal comments to the EPA and the Corps of Engineers opposing the proposed regulations and explaining that the EPA is attempting to regulate private property that clearly falls outside the agency’s jurisdiction.

**State Attorneys General Challenging EPA Proposed Rule,** WNAX Radio/ Yankton, SD, 08/11/14. State Attorneys General from 15 states including South Dakota have written EPA opposing their proposed Waters of the U.S. and interpretive rules. South Dakota Attorney General Marty Jackley says the group believes EPA is exceeding its authority and hasn’t received sufficient input from those effected.

## **Opinion**

**Margaret Krome: Water rule needed — Congress should butt out,** Madison.com (WI), (op-ed), 08/12/14. Margaret Krome: And so, after reviewing hundreds of studies about hydraulic and ecological relationships between streams, wetlands, and downstream rivers and groundwater, these two agencies did as the Supreme Court instructed. In March, they released a long overdue “Waters of the U.S. Rule” and extended until Oct. 20 the period for the public to comment on which streams and wetlands are protected by the act. The proposed rule would not cover all waters in the nation — not isolated ponds, not groundwater, not ditches currently not covered, and not irrigated areas — and it does not broaden coverage of the act. Rather, it simply clarifies what’s obvious for most of us — that upland streams, even the intermittent ones, and wetlands that connect to larger water bodies do affect those larger downstream water bodies and thus should be governed by the act. Margaret Krome is policy program director for the Michael Fields Agricultural Institute in East Troy, Wis.

**Rep. Thompson: It's No Misunderstanding: EPA Overreach on Waters of the U.S. Rule,** Your Erie (PA), (op-ed), 08/11/14. Rep Glenn Thompson: The Environmental Protection Agency's (EPA) regulatory attack on our economy in central and northwestern Pennsylvania has been growing for some time. In recent months, the EPA moved forward with another power grab to redefine the agency's jurisdiction under the Clean Water Act (CWA), through a new proposed rule commonly known as the Waters of the United States (WOTUS). In Pennsylvania, Agriculture is our number one industry. As in other parts of the country, our farmers and landowners know that clean air, clean water, and being good stewards of the environment in which they live and work is fundamental to their livelihoods. Despite local prerogatives and successful state and regional initiatives to protect our natural resources the federal government once again has chosen to undercut these efforts with punitive federal regulations. Congressman Thompson represents the 5<sup>th</sup> District of Pennsylvania.

**Clean Water is a Critical Need,** Houma (LA) Today, (letter to the editor), 08/11/14. Dana Parfait: As deputy chief of the Grand Caillou/Dulac Band of Biloxi-Chitimacha-Choctaw tribe, located in Terrebonne Parish, water is not only an important part of our spiritual connection to the land but is critical to the health our people. It is the basis for our entire way of life as a fisheries based community. Yet, many of the waterways in Terrebonne Parish are at risk. Confusing court cases involving the Clean Water Act have left numerous streams and wetlands without clear protection. Because water is such an integral part of our physical and spiritual wellbeing, I was heartened to see the Environmental Protection Agency’s proposal to ensure that waterways in Terrebonne Parish would be protected under the Clean Water Act. Dana Parfait lives in Marrero.

**EPA Administrator McCarthy’s Myths and Misinformation,** Farm Futures, (op-ed), 08/11/14. Gary Baise: Ms. McCarthy never addressed in her speech the fact that the definition of waters of the U.S. "... relies on extensively on the best professional judgment of agency staff to identify such waters." It might

have been helpful to farm organizations and farmers that Ms. McCarthy responded to the concerns of the July 7 letter. Another issue not addressed by Ms. McCarthy in Kansas City was ditches. Her speech says, "So what about ditches?" She states correctly that EPA is not claiming jurisdiction over all ditches, but she does say, "While some ditches are connected to larger water systems and are vital to public health and water quality, the vast majority are not and therefore not jurisdictional." One news report captured Ms. McCarthy's message. "Regardless of McCarthy's reassuring message about the interpretive rule, there is still a lot of doubt in farm country about the intent of this rule." Gary H. Baise is an Illinois farmer and trial attorney at the law firm Olsson Frank Weeda Terman Matz PC specializing in agricultural and environmental trial issues in state and federal courts.

## **Blogs/Social Media**

**"...there is a proposal afoot that would extend [EPA] jurisdiction and accompanying regulations far beyond what makes sense."** Coyote Gulch, (op-ed), 08/11/14. Guest Columnist Sallie Clark: A new rule, proposed by the Environmental Protection Agency and the Army Corps of Engineers, would erase the distinction between bodies of water — such as streams and lakes — and ditches on the side of a road. According to the proposed redefinition of "Waters of the U.S.," a river would be no different than a public safety ditch; a lake no different than an emergency flood mitigation system. This latest example of over-regulation makes no sense and creates more confusion than it seeks to address. Sallie Clark is first vice president of the National Association of Counties and an El Paso County Commissioner.



**Sebastián Escobar** @Escobarseb 10h

Phosphorus, Algae, and What You Drink - Bloomberg Businessweek+ iPad  
[businessweek.com/articles/2014-...](http://businessweek.com/articles/2014-...)



**Deb Simon-Heinfeld** @debBlufftonAGS 13h

Americans May Have Good Reason to Worry about Safety of Drinking [#Water!](#) Via  
[@americanrivers](#) [ow.ly/AbX27](http://ow.ly/AbX27)



**American Rivers** @americanrivers 16h

Unless **Clean Water Act** is updated Americans will rightly worry about the safety of our drinking water [ow.ly/AbX27](http://ow.ly/AbX27)



**Cerebellum Beverages** @CerebellumH2O 2h

Texas attorney general rejects EPA **Clean Water Act** proposed regulations [ow.ly/2LBuQW](http://ow.ly/2LBuQW)



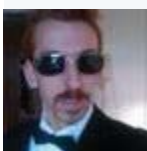
**Stroud Center** @StroudCenter 2h

Another Gr8 editorial: **Clean Water Act** should matter to all sportsmen | Missouri News Tribune:  
[ow.ly/AcoCs](http://ow.ly/AcoCs)



**American Rivers** @americanrivers 5h

Countless rivers across US no longer guaranteed protections under **Clean Water Act**. We need to  
[#protectcleanwater](https://twitter.com/americanrivers) [ow.ly/AbPd4](http://ow.ly/AbPd4)



**Mark Hymes** @MarkHymes 5h

Attention: Anglers, Hunters and Outdoor Enthusiasts: The **Clean Water Act** Clarifications Benefit  
You! [shar.es/1n0x4K](http://shar.es/1n0x4K) via [@sharethis](https://twitter.com/sharethis)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 081114 Clean Water Protection Rule Media Report - 32 items including The Hill, Tulsa World and HuffPo...  
**Date:** Monday, August 11, 2014 11:37:33 AM  
**Attachments:** [image001.png](#)  
[image006.png](#)  
[image007.png](#)  
[image011.png](#)  
[image014.png](#)

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FYI

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 11, 2014

### News Coverage

**Latino groups flex muscle on EPA water reg,** The Hill, 08/10/14. Twenty-eight Hispanic organizations have launched a campaign in support of the rule, through which the EPA is seeking to clarify its authority to regulate streams and other smaller bodies of water. The groups say the threat of polluted waterways disproportionately affects Latinos, both in terms of economic and public health concerns. More than a third of the nation's Hispanic population lives along the Colorado River basin, which stretches from the Rocky Mountains to the Mexican border. They cite polling that shows overwhelming support for more stringent environmental protections among Hispanic voters, including those who identify themselves as Republicans.

**Oklahomans fear change in water regulation,** Tulsa World, 08/11/14. While much attention has been focused on the Environmental Protection Agency's efforts to control greenhouse gases — the so-called "war on coal" — some Oklahomans are at least as concerned about a proposed EPA rule concerning water. The rule change would not impose stricter water quality standards, but opponents say it could broaden the application of existing regulations to include "the water that drips off your hat in a rain storm,"



as Third District Congressman Frank Lucas put it. "We wanted to believe it was a matter of bad definition or the language not being fully fleshed out," Buchanan said. "But when we talk to the EPA ... we are not getting adequate responses."

**S.D. farmers, ranchers asked to comment on new EPA water rule**, (Madison, SD) Daily Leader, 08/08/14. Sombke, also a Conde area farmer, said that officials who rank as high as undersecretaries at federal agencies have discussed the waters of the United States regulations with him and others. Those discussions have led Sombke to understand that the proposed written rules are different from the verbal assurances offered by government bureaucrats. "In looking over the EPA's written rules, they don't comply with what (officials are) telling us when we meet," Sombke said. "Although they're telling us how enforcement will work and we don't need to worry, we have concerns about what's written." Critics of the waters of the United States proposal have said the new rules could lead to federal officials having the authority to regulate drainage ditches and even roadway ditches.

**From Toledo to the Gulf, Inaction Leaves Water Polluted**, Prairie Rivers Network/Champlain, IL, 08/08/14. The crisis affecting water in Toledo, the Gulf of Mexico, and across the nations is the same: nitrogen and phosphorus pollution from big farms and sewage treatment plants. The Farm Bureau and other agricultural organizations have used money and lobbying power to ensure that the pollution from agriculture is exempt from many of the laws that protect our water. Yet Illinois could act to hold polluting farms accountable. It's time to stop asking politely for polluters to do the right things. We need rules that require everyone to keep pollution out of our water.

**Havasu leaders could denounce EPA ruling on Clean Water Act**, (Lake Havasu City, AZ) News-Herald, 08/10/14. A proposed rule change to the federal Clean Water Act could be detrimental to Lake Havasu City's growth, according to city officials. The council is being asked to approve a resolution denouncing the proposed rule. As the Clean Water Act currently stands, any development that could disturb a navigable waterway, within the channel or in the flood plain, requires approval by the Army Corps of Engineers. With so many washes crisscrossing the landscape in Havasu and in Arizona, Wilson said this new rule could stymie development, since more land would require a permit from the Army Corps of Engineers before it is developed.

**Clean Water Act opposed by Benton city officials**, The Saline (AR) Courier, 08/08/10. Benton officials have responded to recent regulations imposed under the Clean Water Act. "The city of Benton and Benton Public Utilities Commission believe it is in the best interest of states and local government to have jurisdiction over smaller, more remote waters (very small headwater streams, drainage ditches, stormwater appurtenances and isolated wetlands) because states and local governments are more accountable to their citizens and more in touch with local environmental and economic situations." The letter cites an example of how the proposed rules might impact work by the local utility company. "If an electric utility pole is in a ditch, along a road, under this new rule we would have to get a US Corps of Engineers permit to replace the pole or to work in the ditch.

**EPA Planning Rule to Clarify 'Assumable' Waters for State 404 Programs**, Inside Washington Publishers, 08/10/14. EPA is planning to craft a rule to clarify what types of waters are "assumable" under the Clean Water Act (CWA) in response to calls from states that clarity is needed for states to win authority to issue section 404 dredge-and-fill permits and to protect existing programs, particularly given confusion created by the agency's pending CWA jurisdiction rule. State sources say the issue has been muddled by EPA and the Army Corps of Engineers' proposed rule aimed at clarifying the scope of the CWA, which the agencies are taking comment on through Oct. 20 and some sources say has made it difficult to clearly identify which waters are subject to state authority once states assume permit powers under section 404(g).

## **Opinion**

**Who Needs Clean Water?** Huffington Post, (op-ed), 08/08/14. Michael Brune: With a couple of decisions in 2001 and 2006, the Supreme Court managed to break the Clean Water Act by calling into question what Congress meant by "the waters of the United States." The existing law had been working just fine for almost 30 years. When the Clean Water Act was passed in 1972, about two-thirds of America's lakes,

rivers, and coastal waters were unsafe for fishing and swimming. Before the Supreme Court waded in, that number had been cut in half. Thus began a long and painstaking effort by the Environmental Protection Agency and the Army Corps of Engineers to fix what the Supreme Court had broken. The result is a proposed EPA rule to clarify which wetlands and streams in the U.S. are covered under the Clean Water Act. This new rule would restore protection to most, though not all, of the waterways previously covered. Michael Brune is executive director, The Sierra Club.

**Clean water not something to be taken for granted**, (Washington, PA) Observer-Reporter, (editorial), 08/09/14. When we turn on the taps in our homes, we take it for granted that clean, safe water will flow forth from them. We shouldn't. Before the Clean Water Act protected these waterways, the U.S. Department of Health studied drinking water supplies around the country, and found a full 30 percent of their samples contained chemicals that were unhealthy for humans to ingest. Responding to court decisions that weakened the Clean Water Act during the last decade, the Environmental Protection Agency and the U.S. Army Corps of Engineers are now attempting to close loopholes in the law that prevents it from protecting 2 million miles of streams and at least 20 million acres of wetlands around the country. Of course, these wetlands and streams feed into rivers that are our primary sources for drinking water, so conservation efforts aimed at these tributaries would be good for us all and a boon to fishermen, since many fish spawn in small streams.

**Driftwood Outdoors: Clean Water Act should matter to all sportsmen**, (Jefferson City, MO) News Tribune, (op-ed), 08/10/14. Columnist Brandon Butler: The proposed rule falls short of reinstating all the protections of the Clean Water Act prior to 2001, so it will actually shrink the historic version. Certain wetlands and prairie potholes that are critical to waterfowl do not connect downstream, so they will not fall under protection. This is a disappointment, but passing this proposed version of the Clean Water Act is at least a step in the right direction. The EPA estimates 2.5 million Missourians receive a portion of their drinking water from supplies fed by intermittent and ephemeral streams. Those dry creek beds may not look like much in August, but when you consider they contribute to the water your kids are drinking, they quickly become a whole lot more important.

**We, too, need to pay attention to Toledo's water problem**, Midland (MI) Daily News, (op-ed), 08/10/14. Steve Griffin: The federal Clean Water Act aims most accurately at point sources, precise locations where pollution is discharged. Non-point sources such as farm runoff are a tougher problem, and some of our best tools are threatened. Details are still being worked out, in the wake of U.S. Supreme Court rulings including one from Midland, on how the Act might or might not apply to some wetlands, which help filter out phosphorous and other pollutants before they move further down a watershed. Steve Griffin is a freelance outdoor writer who lives in Midland.

## **Blogs/Social Media**

**Like to Fish? Here's Why You Should Care about the Clean Water Rule**, American Rivers blog, 08/08/14. Many of the small headwater streams, waters that flow only seasonally or after rain, and wetlands that flow into Pine Creek and countless rivers across the country are no longer guaranteed protections under the Clean Water Act. Although the Clean Water Act was historically interpreted comprehensively to protect these smaller waters, they were put into question following two Supreme Court cases in 2001 and 2006. The resulting Administrative guidance put protections for these waters even more into question as enforcement of polluters significantly declined.

**Texas Beef Industry Worried the EPA Is Cracking Down on Dumping Crap into Waterways**, Dallas (TX) Observer blog, 08/08/14. After years of talking about the problem, the federal government is working on a proposal to do something about it. The EPA is taking comments on an expansion to the Clean Water Act that would require industries to get a permit before dumping anything into wetlands near rivers and seasonal waterways, giving protection to creeks even when they're dry. The idea with the new rule is that those smaller, seasonal bodies of water eventually connect with the large lakes, in addition to supporting year-round animal habitats, so they should be protected just the same.

**Steve Samuels - DOJ - The Waters of the U.S. Jurisprudence**, 08/08/14. Steve Samuels, an Assistant Section Chief in the Environmental Defense Section of the Environment and Natural Resources Division of



the U.S. Department of Justice, discusses the Supreme Court cases interpreting the breadth of the Clean Water Act jurisdiction over "waters of the United States", the interpretive difficulties the decisions have created, and the legislative and regulatory efforts to clarify the breadth of jurisdiction.

<https://www.youtube.com/watch?v=uJMcxja5F-s>

**Jan Goldman Carter - NWF - Wetland Successes**, 08/08/14. Jan Goldman Carter, Senior Manager and Counsel for the National Wildlife Federation's Wetlands and Water Resources Program, discusses the importance of the Clean Water Act's "waters of the United States" language as a foundation for wetlands protection, and discusses ways to move forward in wetlands protection. <https://www.youtube.com/watch?v=32SabfDQvEw>



**News Tribune Sports** @NTsports Aug 10

Driftwood Outdoors: **Clean Water Act** should matter to all sportsmen [bit.ly/1oSjibH](http://bit.ly/1oSjibH)



**Larbi Rahmani** @larbirahmani Aug 9

[#engineering](#) **Clean Water Act** opposed by Benton city officials [bit.ly/1ucfamk](http://bit.ly/1ucfamk)



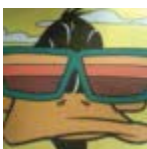
**Jim Howe** @JimHowe24 Aug 9

Baseball, hot dogs & toxic blue-green algae blooms. We need a new **Clean Water Act** that takes on nonpoint pollution. [buffalonews.com/city-region/ch](http://buffalonews.com/city-region/ch)...



**Cerebellum Beverages** @CerebellumH2O 3h

Driftwood Outdoors: **Clean Water Act** should matter to all sportsmen [dlvr.it/6ZMjN7](http://dlvr.it/6ZMjN7)



**Nick Baker** @yesnickbaker Aug 8

Here's [@FarmBureau](#)'s position on the **Clean Water Act**, legislation that significantly affects American Ag. [fb.org/issues/docs/wa](http://fb.org/issues/docs/wa)... [#tnffa](#) [#ffa](#)



**American Rivers** @americanrivers Aug 8

Countless rivers across the country are no longer guaranteed protections under the **Clean Water Act**. [ow.ly/A7bwe](https://ow.ly/A7bwe)



**NE-MW Institute** @NEMWUpperMiss Aug 8

“Common Sense Nebraska” coalition protests USEPA proposed rule clarifying **Clean Water Act** jurisdiction [ow.ly/A6Gg0](https://ow.ly/A6Gg0)



**News Tribune Sports** @NTsports 11h

Driftwood Outdoors: **Clean Water Act** should matter to all sportsmen [bit.ly/1oSjibH](https://bit.ly/1oSjibH)



**Ria Tsiakmaki** @RiaTsiakmaki 11h

Waste Less, Pollute Less: Using Urban Water Conservation to Advance **Clean Water Act** Compliance from @NRDC's blog [switchboard.nrdc.org/blogs/llevine/](https://switchboard.nrdc.org/blogs/llevine/)



**Cerebellum Beverages** @CerebellumH2O 11h

Havasu leaders could denounce EPA ruling on **Clean Water Act** [ow.ly/2LwnSB](https://ow.ly/2LwnSB)



**nancy r. strong** @nancysuzyq 18h

EPA's proposal to protect clean water does not change the **Clean Water Act** exemption for farm ponds [#DitchtheMyth](https://www.ditchthemyth.com/) | [@EPAWater](https://twitter.com/EPAWater)



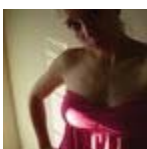
**The Saline Courier** @SalineCourier 20h

Clean Water Act opposed by Benton city officials [dlvr.it/6Z3fnZ](https://dlvr.it/6Z3fnZ) #TheCourier #arnews



**Emily Overholt** @EmilyOverholt Aug 8

EPA could have a much bigger say in Arizona's future because of **Clean Water Act** proposal by [@PhxBizMike](https://twitter.com/PhxBizMike) aka [@mikesunx](https://twitter.com/mikesunx) [bizj.us/10hmk1](https://bizj.us/10hmk1)



**klasicm** @klasicm 20h

Waters that have never been protected remain outside the scope of the **Clean Water Act**.  
[#ditchthemyth...](https://ditchthemyth.com) [fb.me/6D5ilgDeA](https://fb.me/6D5ilgDeA)



**U.S. EPA Water** @EPAWater 20h

Waters that have never been protected remain outside the scope of the **Clean Water Act**.  
[#ditchthemyth](https://ditchthemyth.com) [go.usa.gov/XdkQ](https://go.usa.gov/XdkQ)



**Adroit Finanzas** @Adroit\_Finanzas Aug 9

Phosphorus, Algae, and What You Drink - Bloomberg Businessweek+ iPad  
[businessweek.com/articles/2014-...](https://businessweek.com/articles/2014-...)



**PHX Business Journal** @phxbizjournal Aug 8

EPA could have a much bigger say in Arizona's future because of **Clean Water Act** proposal:  
[bizj.us/10hmk1](https://bizj.us/10hmk1) via [@phxbizmike](https://twitter.com/phxbizmike)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 080814 Clean Water Protection Rule Media Report - 18 items including The Diane Rehm Show, Nebraska heard from...  
**Date:** Friday, August 08, 2014 11:27:18 AM  
**Attachments:** [image001.png](#)

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FYI.

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**To:** Waage, Melissa  
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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 8, 2014

### News Coverage

**Effects Of Poisonous Algae On The Nation's Water Supply**, The Diane Rehm Show, 08/07/14. Here with me to talk about harmful algae and debate over stricter regulations, Jon Devine of the Natural Resources Defense Council. (Devine:) Starting with setting targets for how much of these pollutants need to be in the water, numeric limits on nitrogen and phosphorous that -- so we know what we're shooting at. We don't even know what to measure, really, or what our targets ought to be. And in addition to that, we have had, for the last decade or so, real uncertainty about whether there's protection under the Clean Water Act for small streams and wetlands, which can filter out these pollutants and also absorb the runoff that conveys to our larger water bodies. One of the things that is pending at the federal level right now is a rule that would better protect small streams and wetlands, things that can filter out these pollutants and buffer them -- buffer other water bodies from the runoff and...

**Interpretive Rule Seen as Invalid**, DTN The Progressive Farmer, 08/07/14. Fifteen state attorneys general have asked EPA Administrator Gina McCarthy to withdraw a rule that even agency officials have said created confusion in the agriculture community. The so-called interpretive rule identified 56 conservation practices that are exempt from Clean Water Act regulations, so long as they meet Natural Resources Conservation Service specifications. Many agriculture interest groups and farmers have

expressed concern that the interpretive rule would turn the NRCS into an enforcer of the Clean Water Act (CWA). "Despite the agencies' characterization, we do not believe this to merely be a non-legislative, interpretative rule," the AGs said in the letter."

**'Common Sense Neb.' expands partners**, Morning Ag Clips, 08/07/14. A proposal by the Environmental Protection Agency (EPA) to vastly expand the federal agency's powers under the Clean Water Act (CWA) has prompted a number of Nebraska organizations and entities to join forces under the coalition of 'Common Sense Nebraska.' Nebraska agriculture organizations initially formed the coalition in June to push back against the EPA measure. Numerous non-farm interests have now joined the cause. "This rule would be extremely harmful to Nebraska's farm and ranch families forcing many to obtain CWA permits for the most basic farming and ranching practices. It also has ramifications for virtually anyone who puts a spade in the ground to turn the soil.

**Group opposed to EPA expansion of Clean Water Act grows**, Nebraska Radio Network, 08/07/14. Some groups more associated with the city than the farm have joined the Nebraska Farm Bureau coalition opposed to an expansion of the Clean Water Act. Farm Bureau officials have assembled what it calls the "Common Sense Nebraska" coalition to protest the proposal by the Environmental Protection Agency to expand the Clean Water Act beyond the regulation of "navigable" waterways. Farm groups have protested the proposal, claiming that it would allow the EPA to regulate waterways on the farms, even water sources that flow only intermittently.

**Business Groups Join Forces with Farmers Pushing Back at EPA**, Nebraska TV, 08/07/14. Business groups have joined forces with farmers, in a coalition pushing back at what they see as the overreach of the EPA. Home builders, bankers, and golf courses have joined with Nebraska Farm Bureau, Cattlemen, and other ag groups in the "Common Sense Nebraska" coalition. They're concerned about the Waters of the U.S. rule. Those in the coalition say it would expand the reach of the EPA to regulate ditches, puddles, and ponds. Meanwhile, the EPA says it's a myth that this would add new regulations on farms. The agency says it would preserve exemptions for agriculture. But Farm Bureau says that's not what the fine print says about the Clean Water Act.

**More groups join "Common Sense Nebraska,"** KTIC Radio/West Point, NE, 08/07/14. An effort here in Nebraska to oppose the EPA's Waters of the US rule has almost tripled in size. What started with eight ag organizations opposed to a potential power grab by the EPA now includes 21 organizations representing ag, golf courses, resource districts, bankers, chambers of commerce, home builders and water resource associations. Steve Nelson is president of NE Farm Bureau, one of the founders of the Common Sense Coalition. He says both farm groups and non-farm groups alike realize there's more than what EPA is telling folks concerning the Waters of the US jurisdiction.

**EPA's Clean Water Act proposal sparks concern among Nebraska lawmakers**, KLKN-TV/Lincoln, NE, 08/08/14. The Environmental Protection Agency's new proposal to expand the power of the federal government under the Clean Water Act is sparking concern from Nebraska lawmakers. They say this would erase the distinction between bodies of water, meaning water in a ditch on the side of the road near someone's home would be regulated the same as major streams and lakes. "The rules are written so broadly that there would be no end to what they could do," U.S. Sen. Mike Johanns said. "Which I feel very strongly Congress never intended when they passed this law in the '70s."

**Farmers Battle the Feds Over Water Rules**, KTPM-TV/Omaha, NE, 08/07/14. The Environmental Protection Agency has a new idea that would place some rules on streams and wetlands, but now farmers are saying the idea could cost them a fortune to take care of their crops. Ryan Ueberrhein is a local farmer in Valley Nebraska and owns about 1500 acres of land that consists mostly of corn and soybeans. But now, he is worried a possible new federal rule could make it harder to take care of his crops. "It'd just be a big major headache for a farmer to have to deal with this kind of a thing," said Ueberrhein. The headache he is worried about is the EPA's new idea called the Water of the United States rule. "To make sure that the states and EPA have the ability to limit or prevent pollution being put into waters that we depend on for drinking, for clean water, for agriculture, for fishing and hunting," said Karl Brooks, with the EPA.

**Clean Water Act Under Scrutiny By Nebraska Delegation**, WOWT-TV/Omaha, NE, 08/07/14.

Nebraska's congressional contingent came together today at the "Strategic Air and Space Museum" to talk about changes in the "Clean Water Act." Elected officials from Nebraska call it "over-reach". They're contention is that the EPA could - in theory - regulate "all" water runoff. That would mean counties may need permission to clean out a ditch after a storm or homeowners would need a waiver to fertilize their yard.

**Iowa could soon face water situation similar to Toledo**, Iowa Environmental Focus, 08/07/14. Attorneys general from Iowa and 14 other agricultural and ranching states have spoken out against a recent U.S. Environmental Protection Agency proposed rule for the Clean Water Act, fearing the proposal would place excessive regulations on farmers and ranchers. EPA Administrator Gina McCarthy has defended the proposal and said it does not intend to place strict federal regulations on farmers.

**New Farm Bureau video pans EPA's proposed water rule**, Pork Network, 08/07/14. If adopted, the new rule would enable the agencies to micro-manage farming and impose unworkable regulations on farmers and other landowners. It would grant federal agencies - EPA and the Corps - rather than state and local governing bodies, primary oversight of land use, exposing farmers to penalties for common farming practices of up to \$37,000 per day. Farm Bureau, together with dozens of other agricultural and land-use groups and hundreds of members of Congress, is fighting EPA's attempt to redefine the Clean Water Act through the overreaching waters rule.

**Denham talks water crisis at Chamber event**, Turlock (CA) Journal, 08/07/14. Citing the Clean Water Act of 1972, Denham expressed concerns of administrative overreach particularly in regards to the Environmental Protection Agency's increasingly strict water laws that have compromised many locals farming abilities. "We have seen rules implemented outside of Congress that may have good intentions but have huge adverse affects to our farming community," explained Denham.

## **Opinion**

**All of Montana's Waters Need Protection**, Montana Public Radio, 08/07/14. Dave Chadwick: The Clean Water Act is a good example of government done right: by setting reasonable standards, and providing flexible ways to meet them, the law has balanced development and water quality. Over the last four decades the Clean Water Act has dramatically improved the health of our nation's waterways without slowing down farming, construction, or other important economic activities. The new rule would clearly state that Montana's headwater streams and floodplain lakes and wetlands are under the Clean Water Act's protection. Of course this is good for those of us who fish and hunt these waters. At the same time, keeping these upstream tributaries healthy will save expense and hassle later for all downstream water users. It's common sense, borne out by good science, that the law should apply to these waters. Dave Chadwick is with the Montana Wildlife Federation.

**Phosphorus, Algae, and What You Drink**, Bloomberg Businessweek, (updated editorial), 08/07/14. The Great Lakes system, and Lake Erie in particular, is being stressed by phosphorus from agricultural runoff that the Clean Water Act was never designed to mitigate. The heavier-than-normal spring rainfall in the farming areas that drain into Lake Erie increased its phosphorus levels, worsening the normal algal bloom. What's clear is the regulations aren't up to safeguarding the U.S. drinking-water supply. Rules that require stricter mandates for fertilizer application should be adopted. Lawmakers also should tie the availability of federal subsidies to farms, such as crop insurance, to farm-management practices that reduce runoff. In the meantime, cities such as Toledo will be stuck paying the bill as they spend more to monitor, test, and filter water.

**EPA and Army Corps/ Proposal Puts Private Property Rights in Jeopardy**, American Cattlemen, 08/07/14. Ashley McDonald: The Environmental Protection Agency and the Army Corps of Engineers are once again attempting to push their authority even farther, and this time, private property rights be damned. The new "Waters of the United States" proposal subjects nearly all waters in the country to regulation, regardless of size or continuity of flow. While the EPA continues to claim their proposal does not expand the reach of the Clean Water Act, the way the proposal is written, there is no other interpretation. The vague and subjective wording gives regulators the authority and access to nearly any



water, and with it, all land use activities including ranching. Ashley McDonald is environmental counsel for the National Cattlemen's Beef Association.

## **Blogs/Social Media**

**EPA Shenanigans Panned in #Ditchtherule animated video**, Idaho Farm Bureau blog, 08/07/14. A new animated video produced by the American Farm Bureau Federation is part of the organization's popular Ditch the Rule campaign. The two-and-a-half minute animation explores how the Environmental Protection Agency and the U.S. Army Corps of Engineers' proposed "Waters of the U.S." rule is regulatory overreach and unnecessary.



**Safe Drain®** @safe\_drain 10h

Waste Less, Pollute Less: Using Urban Water Conservation to Advance **Clean Water Act** Compliance from [@NRDC's](#) blog [switchboard.nrdc.org/blogs/llevine/](http://switchboard.nrdc.org/blogs/llevine/)...



**Businessweek**



### **Phosphorus, Algae, and What You Drink**

[The Clean Water Act must be updated to safeguard Americans](#)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 080714 Clean Water Protection Rule Media Report - 14 items including NYT op-ed, Vilsack on CWA rule...  
**Date:** Thursday, August 07, 2014 4:46:26 PM  
**Attachments:** [image001.png](#)

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FYI. Also, I was part of a panel on the "Diane Rehm Show" this AM to discuss the Lake Erie algal bloom and the resulting Toledo water contamination, and of course the clean water rule was one of my main points of focus: <http://thedianerehmshow.org/shows/2014-08-07/effects-poisonous-algae-nations-water-supply>.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Thursday, August 07, 2014 10:15 AM  
**To:** Waage, Melissa  
**Subject:** 080714 Clean Water Protection Rule Media Report - 14 items including NYT op-ed, Vilsack on CWA rule...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 7, 2014

### News Coverage

**Vilsack: Work needed to reassure farmers upset over Waters rule**, Energy Guardian, (see below), 08/06/14. The Obama administration has more to do to convince farmers and ranchers that the Environmental Protection Agency's proposed rule to clarify the reach of the Clean Water Act over rural streams and wetlands won't mean new restrictions, Agriculture Secretary Tom Vilsack said Wednesday. The intent of the rule, known as Waters of the U.S., is to give farm country more certainty about the scope of what's covered under the Clean Water Act, Vilsack told reporters, but he acknowledged that concern is running high. "Obviously there is still work to be done in terms of educating people about that intent, because that's not how it's been interpreted," he said.

**Submit Comments to Stop EPA from Expanding Clean Water Act Authority**, Southeast Ag Net, 08/06/14. The Environmental Protection Agency and the U.S. Army Corps of Engineers recently proposed an expansion of their federal authority over "waters of the U.S." The agencies have proposed to redefine the definition of "Waters of the United States," and that new definition would require cattle ranchers to get



the permission of the federal government anytime they needed to expand, do maintenance, or perform routine activities like driving a tractor through a pasture.

**Farm Bureau hosting meeting regarding proposed EPA water rule**, WLDS Radio/Central IL, 08/06/14. Officials from the Pike-Scott Farm Bureau are encouraging West Central Illinois farmers to attend a meeting tonight to talk about a proposed new rule by the Environmental Protection Agency. Blake Roderick with the Pike-Scott Farm Bureau explains what the federal agency is proposing. "They're saying that all water is connected and thus they have control over all water, it doesn't matter if it's a river or a lake, a stream that you can canoe on. It could be a mud puddle in your backyard," he says. "We're saying that that's patently wrong, and that they need to pull that rule and start over again."

**Proposed Revisions to Clean Water Act Alarm Farmers**, The (East Central Illinois) News Gazette, 08/06/14. Currently, the act applies only to navigable waters, but the Illinois Farm Bureau contends the revisions would extend that to include puddles, ponds, ditches and dry channels that turn into streams during heavy rains. The Environmental Protection Agency and the U.S. Army Corps of Engineers, which came up with the revisions, maintain the changes would affect only about an additional 1,300 acres nationwide. But the Farm Bureau is among several advocacy groups that don't want to see the definition expanded, for fear that regulators will use that leeway down the road to extend their jurisdiction.

**New regulations chafe some farmers**, The Daily Iowan, 08/07/14. On Aug. 19, the Iowa Environmental Protection Commission will vote on the rule that will line up the state regulations with the federal Clean Water Act. The new rule will give the Iowa Department of Natural Resources the authority to require permits regulating manure handling for livestock farms that spill manure into waterways. Natural Resources estimates that there are 8,500 livestock operations in the state that will need to be examined to decide if they need permits. The Iowa Cattlemen's Association has expressed its support for the new regulation because it aligns with the federal Clean Water Act.

**Danville opposes Clean Water Act expansion**, The (Sunbury, PA) Daily Item, 08/06/14. The borough of Danville has approved a resolution opposing the expansion of federal control under the Clean Water Act. The proposed rule change from the U.S. Environmental Protection Agency and Army Corps of Engineers would clarify what waters are and what waters are not protected under the federal Clean Water Act. The Pennsylvania State Association of Boroughs urged Danville to oppose the act. The council approved the resolution at its meeting Tuesday night. According to the boroughs association, the rule change would give the federal government greater authority over public and private waters and land.

**Area farmers concerned about proposed EPA changes**, WGEM Radio/Quincy, IL, 08/06/14. The Illinois Farm Bureau is asking farmers to help them "Ditch the Rule", or fight against proposed rule changes to the Clean Water Act. The EPA says the new rule is to help it better protect the country's water supply, but farmers say it's going to severely limit what they can and can't do on their own land. The EPA says the proposed changes will better protect wetlands and streams that flow into public waterways from pollutants. The problem, says Adam Nielsen with the Illinois Farm Bureau is that many of the protected waterways aren't even water covered, like one stretch of land between the soybean fields near Plainville that only floods a few times a year.

## **Opinion**

**The Threats to Our Drinking Water**, New York Times, 08/06/14. David S. Beckman: Those of us who live in the United States are fortunate; generally we don't have to give a lot of thought to the safety of our tap water. This makes our collective experience with water very different from that of hundreds of millions of people across the globe who lack access to clean water. Equally important, because almost all of us live downstream of somewhere, uncertainty created by a set of Supreme Court decisions about whether all of the nation's waters are protected by the Clean Water Act needs to be resolved so that upstream pollution doesn't cause downstream havoc. [David S. Beckman](#) is the executive director of the Pisces Foundation, an environmental philanthropy, and former director of the water program at the Natural Resources Defense Council.

**EPA proposes common sense rules to protect Montana's wetlands**, The (Butte) Montana Standard,

(op-ed), 08/07/14. Dan Vermillion: All land use activities currently exempted under the Clean Water Act remain so under the proposed rule, including numerous everyday agricultural activities. The rule is simply a concerted effort to more clearly define which waters and activities are not regulated by the Clean Water Act. In fact, the proposal clarifies these exemptions better than any time in the law's 40 year history. This will provide legal certainty to developers, landowners, farmers and ranchers, and others frustrated by ambiguity of the law of late. Montana's streams and wetlands should be protected for the benefit of everyone who depends on clean water. This includes hunters, anglers, farmers, ranchers, Main Street Montana businesses, and anyone who wants to be able to pour a glass of clean water for our kids to drink. If you agree, now is the time for you to contact your member of Congress and the EPA and tell them so. Dan Vermillion owns Sweetwater Travel Co. in Livingston.

## **Blogs/Social Media**

**Iowa AG Writes Letter of Objection to EPA**, 08/06/14. Iowa Attorney General Tom Miller and 14 other state attorneys general are writing a letter to the Environmental Protection Agency objecting to a new rule. <https://www.youtube.com/watch?v=Tsf1S2pttR8>

**WGEM News** @WGEM. 9h

Local farmers speak out about changes to the **Clean Water Act**. [wgem.com/story/26217048](http://wgem.com/story/26217048)



US Army Corps  
of Engineers  
Jacksonville District

**USACE Jax District** @JaxStrong. 43m

USACE will continue to use 2008 guidance to determine jurisdiction while new **Clean Water Act** rule is under consideration. #UOH14



US Army Corps  
of Engineers  
Jacksonville District

**USACE Jax District** @JaxStrong. 37m

Once new **Clean Water Act** rule is implemented, may have a slight (3%) increase over current guidance in jurisdictional tributaries. #UOH14



**Chris Redfern** @ODPChairman. Aug 6

Anonymous comments on website may be newsy to some. Stripping away the **Clean Water Act** in Ohio? meh.

## **Vilsack: Work needed to reassure farmers upset over Waters rule**

**By Edward Felker**

The Obama administration has more to do to convince farmers and ranchers that the Environmental Protection Agency's proposed rule to clarify the reach of the Clean Water Act over rural streams and wetlands won't mean new restrictions, Agriculture Secretary Tom Vilsack said Wednesday.

The intent of the rule, known as Waters of the U.S., is to give farm country more certainty about the scope of what's covered under the Clean Water Act, Vilsack told reporters, but he acknowledged that concern is running high. "Obviously there is still work to be done in terms of educating people about that intent, because that's not how it's been interpreted," he said.

EPA Administrator Gina McCarthy has tried to address concerns that EPA will use the rule to require permits from farmers and ranchers for practices that affect intermittent streams on their lands.

In July she visited a farm in Missouri and spoke to a farm business group in Kansas City, and has fielded pointed questions about the proposal during appearances before congressional committees.

But lawmakers from both parties have persisted in speaking out on behalf of farmers who don't trust McCarthy's pledges that current farming conservation practices would not require Clean Water Act dredging and fill permits.

The Transportation and Infrastructure Committee in the Republican-led House has already advanced a bill to stop the rule.

In the Senate, Sen. Debbie Stabenow, D-Mich., who chairs the Agriculture Committee, last month joined 12 Democratic colleagues from rural states in calling on McCarthy, Vilsack and the Army Corps of Engineers to address a list of concerns they are hearing from their constituents.

They said uncertainty caused by the rule could undermine voluntary conservation practices that were expanded under the 2014 Farm Bill enacted six months ago.

EPA is pursuing WOTUS with the Army Corps of Engineers in the wake of Supreme Court decisions in 2001 and 2006 that it said have left the Clean Water Act open to interpretation. The agency is accepting public comment until October 20.

"There's still work to be done, that's why you have a comment period and you've got a regulatory system in place that will allow the EPA to take all that into consideration and do what they think is best," Vilsack said.

He stressed that a proposed companion rule implemented by EPA and the department would specifically exempt 56 conservation practices from coverage under the law. He said that rule was written to assure farmers that no new restrictions would be put on them from the Waters of the U.S. rule.

Vilsack, who is a former Iowa governor, defended McCarthy's efforts to address consternation in farm country.

"I'm confident that the administrator has made a good faith effort in listening to people, and in making

sure that she's been out, visiting farms, she's been talking to farmers, and I very much appreciate the fact that she's been doing that kind of outreach," he said.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 080614 Clean Water Protection Rule Media Report - 23 items including new AFBF video and Bloomberg, Freep editorials...  
**Date:** Wednesday, August 06, 2014 11:04:07 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image004.png](#)  
[image005.png](#)  
[image012.png](#)

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FYI. Also, Melissa Harrison from the NRDC Action Fund was on C-SPAN's "Washington Journal" this AM, speaking about the Toledo drinking water situation and the linkage to the clean water rule:  
<http://www.c-span.org/video/?320898-5/washington-journal-lake-eries-toxic-algae-bloom>.

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**To:** Waage, Melissa  
**Subject:** 080614 Clean Water Protection Rule Media Report - 23 items including new AFBF video and Bloomberg, Freep editorials...

## Clean Water Protection Rule Media Report

### Prepared for NRDC and Clean Water Action

August 6, 2014

### News Coverage

- **Farm Bureau launches animated video targeting EPA water proposal**, E&E News, (see below), 08/05/14. The American Farm Bureau Federation today unveiled an animated video criticizing a controversial U.S. EPA water proposal -- the group's latest tool in a major campaign it has waged against the proposed rule. The [video](#) contends that the rule would have a harmful impact on farmers and ranchers and drives viewers to the bureau's [website](#) on the rule and its [legislative action center](#) to file comments with EPA. "An expanded CWA would give the federal government power over land use," the video says over an image of a red tractor that is then stepped on by a foot in business shoes. "Government regulation will become an even bigger challenge for farmers and ranchers than the weather," it contends.

**AGs from Iowa, 14 other farm states challenge EPA water rules**, Des Moines (IA) Register, 08/05/14. Attorneys general from Iowa and 14 other farm and ranching states sent the U.S. Environmental Protection Agency a letter objecting to a rule they say would narrow the exemptions the Clean Water Act provides for "normal farming activities." EPA announced the proposed rule in March, hoping to clarify protections under the Clean Water Act for streams and wetlands. The federal agency also released an "interpretive rule to ensure that 56 specific conservation practices that protect or improve water quality" would not be subject to permitting requirements for the discharge of dredged or fill material. By "limiting the exemption to only those conservation practices specifically identified, the agencies have impermissibly narrowed the scope of 'normal farming' activities that have historically been considered exempt," the attorneys say in the letter.

**Ag leaders express concerns over proposals from EPA**, Bismarck (ND) Tribune, 08/05/14. Agriculture commodity group leaders raised concerns over drainage ditches being federally regulated and increased paperwork for farm employee safety requirements. Environmental Protection Agency and state officials were on hand to take questions and suggestions from the newly created North Dakota Department of Agriculture Regulatory Review Committee on Wednesday. Agriculture Commissioner Doug Goehring formed the committee in May to deal with changes to federal regulations and gather comments on proposed new rules. One of those issues the commodity groups are worried about is proposed expansion of the EPA's definition of federal waters to include tributaries. Because of numerous wetlands and aquifers in the state, they are worried "prairie potholes" and other small water bodies on agricultural land may be added to federal oversight.

**Area farmers worried about proposed EPA rules**, Kokomo (IN) Tribune, 08/06/14. The Indiana Farm Bureau and Congresswoman Susan Brooks were on hand Tuesday at the Tipton County Foundation to offer insight into what can be done to alleviate farmers' concerns with the new rule, called Waters of the U.S. If the proposal goes forward, as Indiana Farm Bureau interprets it, permits would be required for normal farming practices in areas deemed as wetlands, in many cases. That could become time consuming and could require additional costs. Basic practices like the application of pesticides and fertilizers could be affected, they fear.

**US and state regulators are moving toward streamlined water protection permitting**, Wilmington (DE) News Journal, 08/05/14. Tuesday's forum also took place as the EPA is seeking public comment on long-controversial rules for identifying wetlands, small streams and other areas warranting Clean Water Act protections. Richard Wilkins, who farms in Kent and Sussex counties and serves as an American Soybean Association officer, told Garvin that his group has concerns about federal proposals that would extend restrictions and protections to "any flowing water." That could complicate farmer attempts to manage land under earlier exemptions from federal regulations.

**EPA Seeks To Downplay Impact of 'Waters of the U.S.' Proposal on Green Infrastructure**, Inside EPA, (see below), 08/05/14. EPA is seeking to assure local regulators that its proposed rule to clarify the scope of the Clean Water Act (CWA) will not subject stormwater channels and green infrastructure features, which the agency has been encouraging municipalities to install, to regulation. The assurances are part of an effort to quell concerns, including from "friendly" groups, that the proposed rule could subject previously exempted waters to regulation. "If no permit [is] needed now, no permit will be needed after this rule is finalized," EPA water chief Nancy Stoner told the National Association of Counties (NACO) annual conference in New Orleans last month, [according to her slide presentation](#).

## **Opinion**

**U.S. knows how to keep Lake Erie from dying all over again**, Bloomberg News, (editorial), 08/05/14. Unless the Clean Water Act and other environmental regulations are updated and steps are taken to mitigate the causes of algal blooms in the Great Lakes as well as the Gulf of Mexico, many Americans will rightly worry about the safety of their drinking water, and more bans such as the one in Toledo are likely. The key is reducing the amount of phosphorus flowing into rivers and lakes. What's clear is that today's regulations aren't up to the job of safeguarding the nation's drinking-water supply. Rules that mandate stricter rules for fertilizer application should be adopted. Lawmakers also should tie the availability of federal subsidies to farms, such as crop insurance, to farm-management practices that reduce runoff. In



the meantime, cities like Toledo will be stuck paying the bill as they spend more money to monitor, test and filter water. Pollution of drinking water is the No. 1 environmental concern among Americans. That's something our political leaders can't ignore.

**Toledo water crisis must be a wake-up call**, Detroit (MI) Free press, (editorial), 08/05/14. At the federal level, lawmakers should stand firm behind the Clean Water Act. There's no credible scientific counterweight to the prevailing opinion that climate change is happening and that it is caused by human activity. Yet policymakers continue to wrangle over the reality of climate change as though it's fringe science. There are sensible steps that can and should be taken to curb human behavior that causes climate change, but it's a question lawmakers — particularly on the Republican side of the aisle — aren't taking seriously. Eleven million people rely on Lake Erie for drinking water, 26 million on the Great Lakes. If the water crisis in Toledo doesn't spur voters to demand response and lawmakers to take action, what will?

**It's time to act on water pollution in Macomb, Oakland counties**, Oakland (CA) Press/Pontiac, MI, (op-ed), 08/05/14. Jim Nash: The rule proposed by the agencies clarifies that these streams fall under the Clean Water Act, will ensure they are protected from pollution or destruction, and will better protect the quality and health of downstream tributaries and rivers. Restoring these protections will do more than safeguard drinking water — they will create jobs and help the recreation industry, craft brewers, and other businesses that produce more than \$514 million in economic activity annually. Our economy relies on clean water to be successful. It's time to protect our water. The EPA needs to fix the Clean Water Act and protect Michigan communities and our Great Lakes. Jim Nash has been the Oakland County Water Resources Commissioner since 2013, and was a County Commissioner from 2005 through 2012.

## **Blogs/Social Media**

**Great Lakes' water quality must be our top priority**, Sandusky (OH) Register blog, 08/05/14. A point we cannot ignore is that our weather patterns are changing and becoming less predictable and more radical. We are having what would be considered to be 25 or 50 year storms almost annually and sometimes more often. We must be prepared to protect our water. We cannot live without clean water. We cannot afford our water supply to be exploited by irresponsible actions or inaction. We need to contact all of our legislators and make them understand that safe drinking water must be a priority and cannot be taken for granted.

**Toledo's Water Ban Lifted: Now What?**, American Rivers blog, 08/05/14. Katie Rosseau: Saturday morning's news of a water ban came as a surprise to me and probably all residents in the City of Toledo and surrounding communities. We think of our drinking water as safe and clean. We use the water without much thought as to where it comes from or what the process is to treat it to make it safe. At the national scale, we continue to work to protect small streams and wetlands by supporting the proposed Clean Water Rule that would clarify what waters are — and what waters are not — protected under the Clean Water Act. Katie Rosseau is Director, Clean Water Supply, Great Lakes Conservation.

**Time to submit comments on EPA water rule**, The Cattleman blog, 08/05/14. Richard Thorpe III: While Congress gave the EPA authority over “navigable” waterways, the EPA is again trying to abuse and expand its authority. The agency announced a new rule proposal in March that would redefine “waters of the U.S.” to expand the water and land that falls under its jurisdiction. This proposal amounts to the largest land grab in history. Essentially, it would give the agency control over all bodies of water. This includes ponds, streams, creeks, ditches, puddles, man-made conveyances, wet areas on pastures, etc. Basically, the federal government would control every drop of water in the country. Richard Thorpe III, first vice president, Texas and Southwestern Cattle Raisers Association.

### **Tell EPA to “Ditch the Rule, 08/05/14.**

Learn why EPA's attempt to redefine the Clean Water Act is regulatory overreach and unnecessary. Tell EPA it's time to DitchTheRule! <http://www.youtube.com/watch?v=YUXbHn8ZpR0>



**American Rivers** @americanrivers 15m

Lobbyists for factory farm interests pressuring Congress to block [@EPA](#) efforts to restore **Clean Water Act** protections [ow.ly/A10vc](https://ow.ly/A10vc)



**Paul Beckwith** @PaulHBeckwith 9h

Saving Lake Erie: Toledo's toxic water crisis and the **Clean Water Act** [ow.ly/zYzA2](https://ow.ly/zYzA2)



**Arkansas Farm Bureau** @ArFB 1h

Check out the new video from [@FarmBureau](#) that explains the far-reaching effects the new **Clean Water Act** could have. [fbvideos.org/ditch-the-rule](https://fbvideos.org/ditch-the-rule)...



**Ecocentric Blog** @EcoCentered 4h

Can the **Clean Water Act** help prevent another Big Ag-driven toxic water crisis? [ow.ly/zYkUQ](https://ow.ly/zYkUQ)  
[#toledo](#) [@EcoWatch](#) [@NRDCWater](#)



**WTEOpinion** @WTEOpinion 5h

New EPA rule will clarify **Clean Water Act**, county commissioner in Colorado writes. [ow.ly/zYbDg](https://ow.ly/zYbDg)



**Burn On, Big River** @CuyahogaCrosser Aug 5

Fertilizer Institute leads coalition of industry and ag interests opposing federal efforts to expand **Clean Water Act**. [nyti.ms/1oswGiC](https://nyti.ms/1oswGiC)





**Policy Matters Ohio** @PolicyMattersOH 20h

Lake Erie America's dead sea? **Clean Water Act** needs revamp to curb ag run-off. [bv.ms/1uiNiuc](https://www.bloomberg.com/news/articles/2014-08-05/lake-erie-america-s-dead-sea-clean-water-act-needs-revamp-to-curb-ag-run-off)  
[@BloombergNews](#)



**The Denver Post**

### [Clean Water Act is worth bolstering with new rule](#)

[We all want to protect Colorado's iconic mountain streams without unnecessary overregulation. The recent EPA and Army Corps proposal strikes that balance.](#)



**Ecocentric Blog** @EcoCentered 6h

Saving Lake Erie: Toledo's [#toxic](#) water crisis and the **Clean Water Act** [ow.ly/zYlah](#) [#toledoproud](#)



**PennFuture** @PennFuture 6h

RT [@JillWitkowski](#): Farm Runoff caused Toledo's toxic water, yet we are supposed 2 listen 2 Farm Bureau on the reach of the **Clean Water Act**?

## **WATER POLICY:**

### **Farm Bureau launches animated video targeting EPA water proposal**

Annie Snider, E&E reporter/Published: Tuesday, August 5, 2014

The American Farm Bureau Federation today unveiled an animated video criticizing a controversial U.S. EPA water proposal -- the group's latest tool in a major campaign it has waged against the proposed rule.

The [video](#) contends that the rule would have a harmful impact on farmers and ranchers and drives viewers to the bureau's [website](#) on the rule and its [legislative action center](#) to file comments with EPA.

"An expanded CWA would give the federal government power over land use," the video says over an image of a red tractor that is then stepped on by a foot in business shoes.

"Government regulation will become an even bigger challenge for farmers and ranchers than the weather,"

it contends.

At issue is a proposed rule from EPA and the Army Corps of Engineers that would increase the number of streams and wetlands that currently receive automatic protection under the Clean Water Act. The proposal holds major implications for a number of sectors, ranging from homebuilding to the energy industry. Concerns about implications of the rule for agriculture, which is exempt from key portions of the Clean Water Act, have come to the fore, though.

The Farm Bureau has been one of the most vocal opponents of the rule and has built a major outreach campaign aimed at opposing it. A previous [video](#) produced by the Missouri Farm Bureau, which spoofed the hit song "Let It Go" with a farm family singing about ditch regulation from the seats of a canoe in a dry ditch, has gained traction among farmers and conservative television personalities.

Inside EPA-Daily News

# EPA Seeks To Downplay Impact Of 'Waters' Proposal On Green Infrastructure

Posted: August 5, 2014

EPA is seeking to assure local regulators that its proposed rule to clarify the scope of the Clean Water Act (CWA) will not subject stormwater channels and green infrastructure features, which the agency has been encouraging municipalities to install, to regulation.

The assurances are part of an effort to quell concerns, including from "friendly" groups, that the proposed rule could subject previously exempted waters to regulation.

"If no permit [is] needed now, no permit will be needed after this rule is finalized," EPA water chief Nancy Stoner told the National Association of Counties (NACO) annual conference in New Orleans last month, [according to her slide presentation](#).

In the presentation, Stoner says that most stormwater features are not jurisdictional, listing these as stormwater ponds, rain gardens, grassy swales, permeable pavement, rain barrels and cisterns.

The presentation cautions that some municipal separate storm sewer systems (MS4) may include jurisdictional waters, and that the "proposed rule does not change the regulation of MS4s."

Stoner's remarks are aimed at quelling concerns that EPA's and the Army Corps of Engineers' proposal could be interpreted to make stormwater channels and other infrastructure -- including "green" infrastructure that EPA is encouraging municipalities to install -- that discharges to protected waters into jurisdictional waterbodies in their own right.

The proposed rule, issued jointly by EPA and the Army Corps of Engineers, seeks to clarify the law's reach after a set of Supreme Court rulings created legal confusion over when smaller, isolated waters are jurisdictional.

In *Solid Waste Agency of Northern Cook County v. Corps*, the high court held that regulators could not cite the presence of migratory birds as the sole basis for asserting jurisdiction.

In *Rapanos v. United States*, the justices split over what test to use for determining jurisdiction. Justice Antonin Scalia ruled in the court's plurality decision that only "relatively permanent waters" that hold a "continuous surface connection" to a traditionally navigable water can be considered jurisdictional. By contrast, Justice Anthony Kennedy ruled in a concurring opinion that waters that share a "significant nexus" to navigable waters can be

regulated.

The administration's proposed rule generally seeks to follow Kennedy's approach, defining "significant nexus" as one that "significantly affects the chemical, physical, or biological integrity" of jurisdictional waters.

The agencies are taking comment on the proposal through Oct. 20.

While the proposal has drawn concerns from traditional EPA opponents, including GOP lawmakers and many industry groups, even some "friendly" agriculture groups and local regulators that generally support the goal of the proposed rule are increasingly arguing that if it is finalized as proposed it would further confuse the already--uncertain landscape of CWA jurisdiction.

For example, one former agency official [previously told Inside EPA](#) that although environmentalist and conservationist groups continue to defend the proposed rule, "EPA is losing friends on this, and that's not very good."

### **Blanket Exemption**

But EPA's assurances are likely to fall short, given that many opponents are seeking a blanket exemption from CWA jurisdiction.

EPA previously asked local regulators to clarify their concerns on green infrastructure for the agency, and indicated it would seek to address them in the final rule, a source tracking the issue says. That source adds that clarification is needed beyond Stoner's remarks and that the local government groups are seeking "a clear cut exemption for stormwater and green infrastructure," or, in the alternative, for specific circumstances under which those features would be considered jurisdictional.

Some of those structures "may meet the definition of a tributary" in the proposed rule, the source says, which proposes to define the term as "water physically characterized by the presence of a bed and banks and ordinary high water mark," and waters that "contribute flow, either directly or through another water" to a jurisdictional waterbody.

Some Democratic lawmakers have also raised concerns about stormwater and other water infrastructure in the context of the proposed rule.

For example, Rep. Grace Napolitano (D-CA) during a June 11 hearing of the House Transportation & Infrastructure (T&I) Committee's water resources panel said EPA and the Corps may need to clarify how the proposed rule would affect stormwater "catch basins" because there are "concerns about an unfunded mandate" if CWA permits would be required. In response, EPA Deputy Administrator Bob Perciasepe responded that the agency is not attempting to make any changes to its existing stormwater rules, "but if there are concerns, we want to hear about them."

Perciasepe replied similarly to questions from Rep. Donna Edwards (D-MD) on how the proposed rule would impact green infrastructure projects, saying the agency will discuss the matter further with stakeholders, but does not believe that the proposal will stifle green infrastructure, though he cautioned, "there may be instances where somebody wants to utilize part of an existing stream, and we'll have to talk about it and see if" the wastewater treatment exclusion would apply in that case.

Also during the June 11 T&I hearing, NACO's Dusty Williams raised concerns in [his written testimony](#) that the proposed CWA rule would allow regulators to assert jurisdiction over stormwater systems, potentially expand CWA regulations of MS4s and negatively impact green infrastructure projects.

"The proposed rule could inadvertently impact a number of these facilities by requiring Section 404 permits for green infrastructure construction projects that are jurisdictional under the new definitions in the proposed rule," Williams' said in his testimony. It is also unclear whether a section 404 permit would be required for routine maintenance activities once green infrastructure projects were implemented.

"In stakeholder meetings, EPA has suggested that local governments need to include in their comments whether an exemption is needed, and if so, under what circumstances, along with the reasoning behind the request," Williams says, adding that NACO is crafting those recommendations. "However, an exemption is clearly needed." -- *Bridget*

DiCosmo ([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com)) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )

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**Date:** Tuesday, August 05, 2014 10:18:12 AM  
**Attachments:** [image001.png](#)  
[image005.png](#)

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FYI.

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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 5, 2014

### News Coverage

**Behind Toledo's Water Crisis, a Long-Troubled Lake Erie**, New York Times, 08/04/14. The federal Clean Water Act is intended to limit pollution from fixed points like industrial outfalls and sewer pipes, but most of the troublesome phosphorus carried into waterways like Lake Erie is spread over thousands of square miles. Addressing so-called nonpoint pollution is mostly left to the states, and in many cases, the states have chosen not to act. Beyond that, the Supreme Court has questioned the scope of the Clean Water Act in recent years, limiting regulators' ability to protect wetlands and other watery areas that are not directly connected to streams, or that do not flow year-round. Wetlands, in particular, filter phosphorus from runoff water before it reaches rivers and lakes. A federal Environmental Protection Agency proposal to restore part of the Clean Water Act's authority has come under fire in Congress, largely from Republicans who view it as an infringement on private rights and a threat to farmers.

**Toledo water ban raises runoff worries**, The Hill, 08/05/14. A ban on drinking water in and around Toledo, Ohio, that was lifted on Monday is calling new attention to efforts to reduce pollution from agricultural runoff that flows into rivers and lakes. Toledo's water crisis came as the Environmental Protection Agency (EPA) is considering its Waters of the United States rule, which would ensure that streams that run dry half the year would be subject to protections under the Clean Water Act. Green

groups say this rule would provide additional protections for the nation's water supply. "EPA and the Corps have proposed a rule that would guarantee that tributary streams and many wetlands around the country that are in legal limbo today would be protected against destruction and pollution by the programs of the Clean Water Act," Devine said.

**EPA faces backlash trying to regulate wetlands that often aren't wet**, McClatchy Washington, 08/05/14. When is a ditch just a ditch? And when is a plot of woodland without a stitch of visible water actually a "water of the U.S."? For federal officials working on contentious regulations to clarify what the 42-year-old Clean Water Act really means, the debate is more than a simple is-the-ditch-half-full-or-half-empty exercise. It's become a flash point in the debate between environmental regulators and property owners, with farmers particularly aiming to get the federal government to pull the so-called "Waters of the U.S." rule.

**Stabenow leads Senate Dems in questioning Waters rule**, Energy Guardian, (see below), 08/05/14. While Republican lawmakers have been the vocal about their alarm over the Environmental Protection Agency's proposal to update Clean Water Act pollution regulations over rural streams and other waterways that affect public health, farm-state Senate Democrats are also raising their own concerns. In a [letter](#) sent to EPA, the Agriculture Department and the Army Corps of Engineers just before senators left Washington last week, Agriculture Committee chair Sen. Debbie Stabenow, D-Mich., and 12 Democratic colleagues, said the proposal may have "unintended consequences" that undercut conservation practices supported by the 2014 Farm Bill.

**Sen Johnson Seeks Clarification of EPA Water Rule**, Dakota Broadcasting, 08/04/14. U.S. Senator Tim Johnson (D-SD) joined with his Senate colleagues in sending a letter to Environmental Protection Agency (EPA) Administrator Gina McCarthy, U.S. Army Corps of Engineers, U.S. Army Secretary John McHugh and Agriculture Secretary Tom Vilsack concerning the Army Corps of Engineers and EPA's proposed rule intended to clarify applicability of the Clean Water Act (CWA) and an associated interpretive rule for normal farming practices.

**EPA Planning Rule to Clarify 'Assumable' Waters for State 404 Programs**, Inside EPA, (see below), 08/04/14. Acting EPA water chief Nancy Stoner told the state groups in June that she was instructing her staff to find a way to provide clarity on assumable waters. State sources say the issue has been muddled by EPA and the Army Corps of Engineers' proposed rule aimed at clarifying the scope of the CWA, which the agencies are taking comment on through Oct. 20 and some sources say has made it difficult to clearly identify which waters are subject to state authority once states assume permit powers under section 404(g). While Congress intended to preclude waters that transport interstate or foreign commerce from states' 404 oversight, the proposed rule is creating confusion over which "other waters" -- such as prairie potholes or playa lakes -- are subject to state oversight.

**NFU joins groups calling for more clarity in EPA rule changes**, The Country Today, 08/04/14. Late last month, Roger Johnson, president of the National Farmers Union, which had stood behind the EPA initially, wrote to Gina McCarthy, EPA administrator, urging her to provide clearer answers to questions that have arisen from the agricultural community regarding the proposed rule. According to the letter, the NFU board of directors spoke with McCarthy on the topic July 15, but were left feeling that "the proposed rule has created less clarity, not more as intended."

**Clean Water Act worth bolstering, says Summit County Commissioner**, Colorado Trout Unlimited, 08/04/14. Summit County Commissioner Karn Stiegelmeier penned an op-ed piece that ran in the Denver Post on August 4th, supporting the proposed new "Waters of the United States" rulemaking by the EPA as an important step in improving the effectiveness and efficiency of Clean Water Act permitting processes. [The piece is well worth the read, and you can find it online by clicking here.](#) The EPA rulemaking is a key step in ensuring that headwater and feeder streams, which may not flow year-round, are still afforded protection under the Clean Water Act.

## **Opinion**

**Toledo's Troubles: Vivid Example of Why We Need to Act on Climate and Clean Water**, Huffington

Post, (op-ed), 08/04/14. Henry Henderson: The troubles in Toledo this weekend might seem the stuff of science fiction (as an aside, just listen to the [stories running on Chicago Public Radio](#)), but the truth is that a major American city, perched along the Great Lakes [just went three days without drinking water after pollution poisoned their supply](#). Our nation needs the “Clean Power Plan” (which would slash emissions from our nation’s largest carbon pollution sources), and the “Clean Water Protection Rule” [clarifications to the Clean Water Act](#) (which would return anti-pollution protections to wetlands, streams and headwaters that flow into bigger bodies of water) to ensure we put people before polluters. Otherwise, Toledo’s troubles are likely to be more common, in Ohio, around the Great Lakes and all over the nation. Henry Henderson is director of NRDC’s Midwest program.

**Clean water is good for Maryland**, The Baltimore (MD) Sun, (op-ed), 08/04/14. Stephen Schaff: The new Waters of the U.S. rule is designed to clarify that the Clean Water Act protects a variety of important waters, including seasonal and rain-dependent streams, as well as wetlands near rivers and streams. Getting it implemented will depend on support from our members of [Congress](#) for the agencies' proposal. It'll affect a lot more than your favorite crab cakes — it could save your job. Think clean water only counts when it comes out of your tap or when you dive in at the beach? No — it means so much more. Clean water is a front-burner business issue in Maryland and elsewhere. Stephen Schaff is the founding executive director of the Chesapeake Sustainable Business Council.

**EPA has a hearing problem**, Texas Farm Bureau, (op-ed), 08/04/14. Gene Hall: Agriculture is blasting proposed revisions to the Clean Water Act that muddy the waters between federal and state regulatory powers. Called “Ditch the Rule,” the campaign has motivated an army of farmers and ranchers to speak out. EPA’s intention is black and white. The agency wants to control all waters in the U.S by expanding its authority to non-point sources of pollution. What does that mean to you? Potential regulation of ponds, ditches and fields. The possible need to acquire Federal permits to build fences, apply fertilizer or control weeds. Gene Hall is director of the Texas Farm Bureau.

## **Blogs/Social Media**

**Toledo’s Drinking Water Crisis**, NRDC Switchboard/Karen Hobbs's blog, 08/04/14. The draft rule would restore Clean Water Act protections to wetlands and tributary streams (you can read more about the history of the rule [here](#)). These waters provide [important filters for nitrogen and phosphorus, nutrients that can fuel algae blooms](#). The Great Lakes region has already lost about 66 percent of its historic wetlands; [Ohio has lost 90 percent of its wetlands](#), the second highest loss rate in the nation. .

**Ditch the Myth**, Humboldt County (NV) Democrats, 08/04/14. This post addresses concerns and misconceptions about the proposal by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to protect clean water. The proposed rule clarifies protection under the Clean Water Act for streams and wetlands that form the foundation of the nation’s water resources. The following facts emphasize that this proposed rule cuts through red tape to make normal farming practices easier while also ensuring that waters are clean for human health, communities, and the economy.



**Tanya J. Smith** [@tanyajsmithDC](#) 30m

Behind [#Toledo's](#) Water Crisis, a Long-Troubled Lake Erie<<<Restore Authority to The **Clean Water Act** to Impose Limits! [nyti.ms/1oswGiC](#)





**Burn On, Big River** @CuyahogaCrosser 1h

Fertilizer Institute leads coalition of industry and ag interests opposing federal efforts to expand **Clean Water Act**. [nyti.ms/1oswGiC](http://nyti.ms/1oswGiC)



**Reed F. Richardson** @reedfrich 1h

Who's behind Toledo's drinking water crisis? These 3 groups undermining the **Clean Water Act**. [nytimes.com/2014/08/05/us/](http://nytimes.com/2014/08/05/us/)... [pic.twitter.com/sL4a8NiHva](https://pic.twitter.com/sL4a8NiHva)



**Texas Eco News** @TexasEcoNews 2h

#Texas #Environment Hoeven Says **Clean Water Act** is an Overreach [ift.tt/UQlqA5](http://ift.tt/UQlqA5)



**John Dingell** @john\_dingell 18h

.@14SKEvans Clearly not enough. Full funding of **Clean Water Act** and vigorous enforcement of law on point/area sources is an absolute must.

## Stabenow leads Senate Dems in questioning Waters rule

By Edward Felker, Energy Guardian

While Republican lawmakers have been the vocal about their alarm over the Environmental Protection Agency's proposal to update Clean Water Act pollution regulations over rural streams and other waterways that affect public health, farm-state Senate Democrats are also raising their own concerns.

In a [letter](#) sent to EPA, the Agriculture Department and the Army Corps of Engineers just before senators left Washington last week, Agriculture Committee chair Sen. Debbie Stabenow, D-Mich., and 12 Democratic colleagues, said the proposal may have "unintended consequences" that undercut conservation practices supported by the 2014 Farm Bill.

They also scored agency officials for not doing enough to address concerns by the farm sector, even though EPA Administrator Gina McCarthy has sought to do just that, including a trip to a farm in Missouri last month and a speech the next day in Kansas City to tackle questions directly.

"While we have long been supporters of the Clean Water Act protecting our nation's water resources, we want to make sure that the proposed jurisdictional rule and the interpretive rule do not have unintended effects on agriculture and on the conservation practices currently used by many of our nation's farmers and ranchers," the group said.



The senators called on McCarthy, Agriculture Secretary Tom Vilsack and the Secretary of the Army John McHugh to clarify to them that the rule, known as the Waters of the U.S., is intended to "promote conservation practices and provide regulatory certainty for farmers and ranchers."

The senators said they have heard concerns from farmers that conservation practices not listed under the proposal as exempted might require a permit and that they may be liable to citizen lawsuits allowed under the law. The so-called interpretive rule, proposed by EPA alongside the jurisdiction rule, would specifically exempt 56 farming practices.

The lawmakers also want to see more specific definitions of intermittent streams and clearer exemptions for ditches and farm drainage.

The group included four Democrats up for re-election this year: Sen. Kay Hagan of North Carolina, Sen. Jeanne Shaheen of New Hampshire, Sen. Al Franken of Minnesota and Sen. Mark Warner of Virginia.

Two of the others who signed the letter are retiring, leaving open seats that Republicans hope to take over. They are Sen. Tim Johnson of South Dakota and Sen. Tom Harkin of Iowa.

The proposal is still in the public comment phase, which was extended to October to allow for extensive response, said EPA spokeswoman Liz Purchia.

"The administrator is committed to getting it right, and we're looking for input to ensure that we are accurately writing it in a way that is clear," Purchia said.

At the speech last month to the Agricultural Business Council of Kansas City, McCarthy sought to settle concerns that the plan would extend Clean Water Act permitting requirements to farm practices that haven't been covered before.

"I heard very clearly some of the concerns about our proposed rule," she said, referring to her Missouri farm visit.

McCarthy said that past conservation practices would remain exempt, and that the 56 examples would allow farmers to know that those can be undertaken without getting a permit -- though she left the door open to changes.

"We added 56 exemptions because we want to boost conservation without boosting bureaucracy. Is the interpretive rule the best way to do that? Let's figure that out together," she said.

House Republicans have already moved to show their opposition to the proposal, with passage of a bill in the House Transportation and Infrastructure Committee last month to bar EPA from moving forward.

## Daily News

# EPA Planning Rule To Clarify 'Assumable' Waters For State 404 Programs

Posted: August 4, 2014

EPA is planning to craft a rule to clarify what types of waters are "assumable" under the Clean Water Act (CWA) in response to calls from states that clarity is needed for states to win authority to issue section 404 dredge-and-fill permits and to protect existing programs, particularly given confusion created by the agency's pending CWA jurisdiction rule.

Speaking to the Environmental Council of the States (ECOS) and other state groups earlier this month during a quarterly Office of Water briefing, EPA "reiterated its commitment to working with states, per ECOS' request, on new regulations for state assumption of the dredge and fill program under CWA 404(g)," according to ECOS' July 25 weekly *Ecoswire* newsletter.

Groups representing state environment officials have long urged states to assume 404 authority, which for years only Michigan and New Jersey have done, but recently they have also called on EPA to revise the relevant CWA regulations to provide greater clarity as to what types of waters states may assume the 404 permitting role over.

Acting EPA water chief Nancy Stoner told the state groups in June that she was instructing her staff to find a way to provide clarity on assumable waters.

State sources say the issue has been muddled by EPA and the Army Corps of Engineers' proposed rule aimed at clarifying the scope of the CWA, which the agencies are taking comment on through Oct. 20 and some sources say has made it difficult to clearly identify which waters are subject to state authority once states assume permit powers under section 404(g).

While Congress intended to preclude waters that transport interstate or foreign commerce from states' 404 oversight, the proposed rule is creating confusion over which "other waters" -- such as prairie potholes or playa lakes -- are subject to state oversight. The reason, officials say, is that because EPA and the Corps have based their proposed rule on the nexus or connectivity between smaller waters and larger "navigable" waters, it allows federal officials to argue that many waters currently eligible for state oversight are off limits.

Complicating the issue further is that a handful of states, such as Alaska and Oregon, are in the process of seeking CWA 404 authority, and say the application review with the Corps often gets weighed down in a lengthy discussion of what waters the program will address.

"We're getting lost in the discussion on connectivity," a state source previously told *Inside EPA*, adding, "it's a dead end street for a state if the Corps pulls out section 10 [of the Rivers & Harbors Act] and starts waving it" to justify preempting state authority.

### **Jurisdiction Rulemaking**

State sources say any effort EPA and the Corps make to clarify 404(g) must be kept separate from the CWA jurisdiction rulemaking to avoid further confusion, a request EPA has appeared to agree with in recent discussions.

"They don't want to get it mixed up in the waters of the U.S. Rule," a second state source says, adding that they are "surprised EPA reacted so quickly" on states' calls to address the assumable waters issue, given that finalizing the CWA jurisdiction rule is likely to be a time consuming and resource intensive process.

A third source says that while EPA has multiple options besides a formal rulemaking for clarifying the 404(g) questions, such as guidance, rule revisions or a policy letter, "it needs to be clarified irrespective of the CWA rule." The source adds that "there is no reason to have it in the new definition of waters of the U.S." but says they have not yet formed a position on whether it should be included in preamble language in the final jurisdiction rule.

The CWA jurisdiction proposal, issued April 21 jointly by EPA and the Corps, aims to clarify the reach of the water law in the wake of the 2006 high court ruling, *Rapanos v. United States*. In the ruling, Justice Antonin Scalia ruled in the court's plurality decision that only "relatively permanent waters" that hold a "continuous surface connection" to a traditionally navigable water of the United States can be considered jurisdictional.

By contrast, Justice Anthony Kennedy ruled in a concurring opinion that waters that share a "significant nexus" to navigable waters can be regulated under the water law.

The administration's proposed rule generally seeks to follow Kennedy's approach. The proposed rule, for example, says that all streams, as well as all waters and wetlands located in floodplains and riparian corridors, share "connectivity" or "nexus" to downstream, traditionally regulated waters -- and are therefore subject to default regulation -- while "other waters" would be assessed on a case-by-case basis.

The states' questions come as EPA is weighing whether it will approve recent changes that Michigan -- one of only two states that currently holds 404 permit authority -- proposed to its program, and a growing number of states are considering or preparing to ask federal officials for authority to issue the permits, despite limited federal funds and other hurdles.

### **Disposal Permits**

Section 404 of the CWA, which is overseen primarily by the Corps with EPA oversight, allows regulators to permit disposal of "dredge-and-fill material," such as mining debris, earth moving material from development and infrastructure construction projects and other high-volume materials, in wetlands and other sensitive waterbodies.

Under section 404(g), the law allows states and tribes to assume permit authority if they can demonstrate their programs are equivalent.

ECOS, Association of Clean Water Administrators and Association of State Wetland Managers in an April 30 letter to Stoner [outlined their concerns](#), saying states currently considering assumption are having difficulty making progress because of the current uncertainty" over which waters would be subject to state permit authority, and asking the agency to ensure "steps to further clarify the scope of assumable and non-assumable waters be initiated in a timely manner."

Stoner says in [a June 13 response](#) that EPA is committed in providing clarity and removing barriers to state assumption of 404 programs "wherever possible," adding, "I have asked my staff to identify a path forward that enables us to engage your organizations, as well as other appropriate state, federal and tribal partners and technical experts in a process that seeks to provide clarity on assumable waters under CWA section 404(g)." -  
-Bridget DiCosmo ([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com))

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**To:** [Devine, Jon](#)  
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[073014 Clean Water Protection Rule Media Report - 9 items including more from AFBF ....msg](#)  
[072914 Clean Water Protection Rule Media Report - 19 items including more from the American Sustainable Business Council and from Sen Johanns....msg](#)  
[072814 Clean Water Protection Rule Media Report - 35 items including McCarthy's outreach to farmers history of CWA struggles ....msg](#)

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FYI. Also attached are updates from last week. My apologies for the delay; I was out of the office and neglected to arrange for them to be forwarded.

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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

August 4, 2014

### News Coverage

**Senate's EPA FY15 Bill Rejects Water SRF Cuts, Avoids Policy Restrictions**, Inside EPA, (see below), 08/01/14. Senate appropriators have released draft fiscal year 2015 funding bill that roughly retains the agency's existing \$8.2 billion funding level and rejects the Obama administration's proposed cuts to water infrastructure funding, and does not include provisions in a House FY15 bill that would block major EPA climate, air and other regulations. The Senate, which has generally opposed efforts to use funding measures as a vehicle for blocking Obama administration policies, omits virtually all of the policy riders the House included in its bill, including prohibitions on using funds to implement EPA's proposed landmark

greenhouse gas standards for power plants, its Clean Water Act jurisdiction rule, a prohibition on regulating coal ash as "hazardous" waste, and other controversial policies.

**Senate Democrats Join Critics of EPA's Clean Water Act Jurisdiction Rule**, Inside EPA, (see below), 08/01/14. Key Senate Democrats are joining critics who have asked EPA to revise its regulatory package seeking to clarify the reach of the Clean Water Act (CWA), in a new letter that calls on the agency to clarify key terms in the regulation while also taking aim at the controversial "interpretive rule" exempting many farming practices from permit requirements. But the senators' letter underscores the broader criticism EPA has begun to field from traditionally friendly corners of the regulated community, including agriculture groups and state and local officials who have long urged EPA to clarify the scope of its CWA jurisdiction but are now increasingly charging that the rule as proposed would further confuse the already-uncertain state of the water law.

**Stabenow, Other Senators Ask EPA to Clarify Water of the U.S. Rule**, Oklahoma Farm Report, 08/01/14. Senator Debbie Stabenow, Chairwoman of the U.S. Senate Committee on Agriculture, Nutrition and Forestry, along with several other Senators, today urged the Environmental Protection Agency, the U.S. Army Corps of Engineers and the U.S. Department of Agriculture to provide farmers and ranchers with more certainty as the agencies move forward with clarifying which waters can be regulated under the Clean Water Act. In a letter, also signed by 12 other Senators, Stabenow said stakeholders across the country have raised concerns with the proposed "U.S. waters rule" and that more clarity from the agencies could provide much-needed certainty - to make sure the rule doesn't have unintended effects on agriculture and on critical conservation efforts.

**Conservationists say state waterways at risk**, Bucks County (PA) Courier Times, 08/04/14. Pennsylvania has 86,000 miles of rivers, streams and creeks — a total length eclipsed only by the vast wilderness in Alaska. In the meantime, Moyer says the EPA and Army Corps of Engineers have studied and crafted a new rule that restores most of the original protections. Now in a public comment period, Moyer says that the process is already under fire in Washington from groups such as the National Association of Home Builders and American Farm Bureau Federation. "In Bucks County, a very high percentage of our streams are headwater streams. These are the little creeks that run through our backyards and communities before eventually meeting with larger tributaries," van Rossum said. "Without restoration of the EPA's authority, we have exposed the majority of our waterways to damage."

**Farmers discuss EPA water rules**, The (Monroe, LA) News Star, 08/03/14. "This is one of the most critical issues facing Louisiana agriculture and sets the stage to define how farmers will be able to produce food and fiber in the future," said Rogers Leonard, AgCenter associate vice chancellor for plant and soil sciences. "Nearly all of Louisiana's upland farmland drains into a navigable waterway, so clarifying what can be classified waters of the U.S. and what limitations are placed upon that farmland are of grave concern to producers and landowners."

**Analyst: Pending EPA rule aims to clarify Clean Water Act**, Longview (TX) News Journal, 08/02/14. "I think this expands the Environmental Protection Agency jurisdiction well beyond what's in the Clean Water Act," said Jay Bragg, the official with the Texas Farm Bureau with responsibility for regulations. "We're talking about they can claim a flood plain as, 'Waters of the U.S.,' and as adjacent to waters of the U.S. And the Clean Water Act talks about, 'navigable waters.' And I think that's a stretch."

**Senate Republicans Meet with EPA Chief**, High Plains/Midwest Ag Journal, 08/04/14. Republican members of the Senate Agriculture Committee had a long-awaited meeting July 22 with Environmental Protection Agency Administrator (EPA) Gina McCarthy. Chief among the concerns raised by GOP senators representing rural communities and agriculture is the "Waters of the United States" (WOTUS) rule, which could bring more waters under the jurisdiction of the CWA, making them subject to EPA permitting requirements and the agriculture interpretive rule that outlines specific practices that qualify producers for exemptions from regulation if approved by U.S. Department of Agriculture.

**NCGA voices strong concern during WOTUS interpretive rule hearing in the House**, High Plains/MidWest Ag Journal, 08/04/14. National Corn Growers Association First Vice President Chip Bowling testified before the House Agriculture Subcommittee on Conservation, Forestry and Energy at a

hearing on the U.S. Environmental Protection Agency's interpretive rule regarding the applicability of Clean Water Act agricultural exemptions. The interpretive rule was released in conjunction with U.S. Environmental Protection Agency and U.S. Army Corps of Engineers' proposed rule for defining the waters of the United States that fall under EPA's Clean Water Act jurisdiction.

**Farmers Urged to Give Lawmakers Earful on CWA, Immigration**, DTN Progressive Farmer, 08/01/14.

With Congress now on a five-week vacation lawmakers are likely to get an earful from U.S. farmers. The American Farm Bureau is urging its members to discuss with lawmakers how the EPA Clean Water Act rule and lack of immigration reform will affect life on the farm. "With mid-term elections just around the corner, farmers are taking this prime opportunity to share stories of how regulations like the EPA's latest waters of the U.S. rule and immigration reform directly affect their livelihood," AFBF said in a news release Friday.

**Why EPA Suddenly Doesn't Have Anyone Running The Office That Protects Our Waterways**, Think

Progress, 08/01/14. Starting Friday, there is no one in charge of the Environmental Protection Agency's Office of Water. EPA's March rule change restored some of the EPA water office's authority by clarifying which bodies of water it sees as falling under the Clean Water Act. The change does not return to the pre-2001 status quo, but it would re-expand EPA authority over most intermittent streams and wetlands near waterways, while evaluating isolated bodies of water on a case-by-case basis. Senate Republicans promptly circulated a letter calling the rule change an "overreach," and saying a vote for Kopocis would effectively be a *de facto* vote in favor of the change.

**3 Hot Regulatory Issues Affecting the Landscaping Industry**, Green Industry Pros, 08/01/14. The EPA

and U.S. Army Corps of Engineers have jointly released a proposed rule to clarify protection under the Clean Water Act for streams and wetlands. This proposed rule would greatly expand the scope of waters subject to regulation, possibly even including things like ditches and man-made water bodies such as lakes, ponds and fountains. This proposed rule would greatly restrict a contractor's ability to utilize pesticides to control invasive weeds and disease-carrying insects and pests. A contractor's costs would also likely increase as a result of additional permitting requirements. Additionally, the proposed rule could also restrict a contractor's ability to install trees, grass and other plants.

- **Senate Dems ask Obama admin to clarify how rule proposal affects farmers**, (Oakland, CA) Bay Planning Coalition, 08/01/14. U.S. EPA's recent efforts to clear up confusion among farmers and ranchers about a controversial proposed water rule and an accompanying interpretive rule haven't satisfied key Senate Democrats. Senate Agriculture Chairwoman Debbie Stabenow (D-Mich.) and a dozen of her Democratic colleagues asked the Obama administration yesterday to clarify what the proposal — aimed at defining which streams and wetlands fall under the protection of the Clean Water Act — and the interpretive rule mean for farmers.

- **Opinion**

**New EPA water rules could drive property rights into a ditch**, Orange County (CA) Register, (op-ed), 08/01/14. Columnist Tom Campbell: A logical compromise would be for the EPA and the Army Corps first to identify with care a few specific practices like dumping toxic substances, and then to assert its jurisdiction only insofar as those specific practices were involved. They have instead gone about this in reverse order: first, asserting almost universal jurisdiction, and second, threatening as yet unspecified applications of how it will use that jurisdiction to follow later. Tom Campbell is the dean of the Fowler School of Law at Chapman University.

**Clean Water Act is worth bolstering with new rule**, Denver (CO) Post, (op-ed), 08/03/14. Karn Stiegelmeier: We all want to protect Colorado's iconic mountain streams that provide clean water to drink and clean water to fish, without unnecessary overregulation. A recent proposal from the Environmental Protection Agency and Army Corps strikes that balance. The new rule would restore important protections for waterways and reduce administrative burdens in permitting processes. While admittedly technical, this is an important step forward. Many government and agricultural leaders have already opposed the rule-making in its entirety, providing little or no feedback on how the rule might be improved. There has been



broad misinterpretation of this rule clarification as burdensome "over-regulation." In fact, the proposal is precisely the opposite. Karn Stiegelmeier is a Summit County commissioner.

**Letter: Clean Water Act protections are crucial to our way of life**, Buffalo (NY) News, (letter to the editor), 08/01/14. Samatha Duthe: Clean water is critical to our health and quality of life, but the smaller streams that feed and filter New York's larger waterways are at risk of pollution. Fortunately for us, earlier this year the Environmental Protection Agency proposed a rule that would restore Clean Water Act protections to ensure that these waterways get the protection they deserve. If finalized, this rule would restore protections to more than half of New York's streams and the drinking water for over 11 million New Yorkers. Samatha Duthe lives in North Tonawanda, NY.

**Congress should make clean water a priority**, The Pottstown (PA) Mercury, (letter to the editor), 08/01/14. Lisa DeLoach: This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams — waters that provide drinking water to 117 million Americans and vital habitat for wildlife. Lisa DeLoach lives in Royersford, PA.

**Letter: Close regulatory loopholes on pollution of waterways**, (Hudson Valley, NY) Daily Freeman, (letter to the editor), 08/02/14. Heather Leibowitz: We cannot continue to allow polluters to dump millions of pounds of toxic pollution into New York's waters. This summer, the Environmental Protection Agency is working to close the loopholes in the Clean Water Act. This could be the single largest step taken for clean water in more than a decade. But polluters are pressuring the EPA to back down. Heather Leibowitz is director, Environment New York.

## **Blogs/Social Media**

**Senators Seek Clarification On "Waters Of The US,"** Sustainable Agriculture blog, 08/01/14. The National Sustainable Agriculture Coalition (NSAC) applauds the Senators for working within the rulemaking process to express their confusion, rather than simply calling for the rule to be withdrawn. The senators encouraged the EPA, USDA, and Army Corps of Engineers to engage with stakeholders to better understand their concerns as the rulemaking process continues.



**John Orr** @CoyoteGulch 1h

**Clean Water Act** is worth bolstering with new rule: [dpo.st/1sktEi1](http://dpo.st/1sktEi1) via [@denverpost](https://twitter.com/denverpost)



**The Daily Advertiser** @theadvertiser 16h

**Clean Water Act** regulations have some farmers tense. [bit.ly/1nianr4](http://bit.ly/1nianr4)

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Frustration and inaction hinder efforts to enforce the **Clean Water Act** [bit.ly/1AE0C0q](http://bit.ly/1AE0C0q)



**U.S. EPA Water** @EPWater 19h

Congress shouldn't muddy the waters on the EPA's **Clean Water Act** rule Los Angeles Times [ow.ly/zeX5T](http://ow.ly/zeX5T) [ow.ly/zeX9d](http://ow.ly/zeX9d)



**Dave Scott** @DaveScottSC 2h

400,000 in Toledo have no drinking water due to Ag pollution. Congress, Gov Kasich, wake up! strengthen and enforce the **Clean Water Act**!

## Senate's EPA FY15 Bill Rejects Water SRF Cuts, Avoids Policy Restrictions

Inside EPA/Posted: August 1, 2014

Senate appropriators have released draft fiscal year 2015 funding bill that roughly retains the agency's existing \$8.2 billion funding level and rejects the Obama administration's proposed cuts to water infrastructure funding, and does not include provisions in a House FY15 bill that would block major EPA climate, air and other regulations.

The Senate's [bipartisan funding bill](#) and [non-binding report language](#) released Aug. 1 moves Congress closer to expected conference talks to resolve the differences between the House and Senate funding bills for EPA. The House has proposed cutting EPA's budget by \$717 million, or 9 percent, down to \$7.5 billion, and included language that would prohibit the agency from funding implementation of policies that the GOP opposes.

The House Appropriations Committee last month on a [29-19 party-line vote](#) approved its EPA funding bill, though it has yet to receive floor debate. Even if it clears the lower chamber, the Democratic-led Senate is likely to oppose both the major funding reduction to EPA's overall budget and the riders to restrict agency policies.

House GOP lawmakers are therefore looking to conference talks to craft a sweeping omnibus measure addressing funding for many agencies. Under congressional rules, observers say, the House could request conference talks to reconcile any House-passed funding bill with whatever measures are pending in the Senate.

Should such talks take place, then lawmakers will have to wrangle with which policy restrictions should make it into any compromise bill, and also debate the level of funding to provide for key EPA programs.

The Senate bill would fund EPA at \$8.18 billion, slightly less than its FY14 enacted level but still roughly \$680 million more than the House is proposing through its pending appropriations bill.

The bulk of the House cuts target EPA's clean water and drinking state revolving funds (SRFs), which support state and local water infrastructure projects. The House bill would cut the clean water SRF 30 percent from \$1.45 billion to \$1.02 billion, and reduce the drinking water SRF 16 percent from \$906 million to \$757 million.

The administration had included the same water infrastructure cuts in its budget proposal, directing some of the savings toward agency priorities, while the House used the cuts to reduce EPA's overall budget.

### Water Infrastructure



But the Senate FY15 bill would avoid any SRF reductions in FY14. "It is concerning that the administration continues to propose drastic reductions to State Revolving Fund programs in order to offer investments in other areas of the Agency's budget even though similar proposals have been rejected by the Committees on Appropriations in prior fiscal years," says the Senate Appropriations Committee's interior panel in the report language.

The report commends some aspects of President Obama's FY15 budget request for EPA, but says that Congress should not reduce funding for the vital SRFs to pay for other policy priorities.

"While many of the proposed initiatives in the budget request are meritorious and deserve future consideration, it is not an acceptable tradeoff to increase internal agency programs at the expense of these infrastructure funds, which have wide bipartisan support. The administration should reconsider its budget formulation strategy in future budget cycles," says the report by Sen. Jack Reed (D-RI), chair of the interior panel, and ranking member Lisa Murkowski (R-AK).

Overall, the Senate's bill would boost agency funding, compared with the administration's request, by roughly \$292 million, though all of that increase comes from restoring the SRF funding, and the Senate proposes to slightly trim nearly every account in EPA's budget compared to the president's request, though not at the levels in the House bill.

The Senate bill also rejects a House proposal to boost the agency's Superfund account from the existing \$1.09 billion level to \$1.16 billion, opting instead to fund the program at \$1.087 billion.

The Senate would also leave flat funding levels of \$2.639 billion for the Environmental Programs and Management account, which funds core regulatory programs. The House bill would cut the program by 4 percent to \$2.51 billion.

The agency's Science and Technology Account also would be funded in FY15 at the existing level of \$753 million under the Senate bill, while the House would cut the account to \$716 million.

For State and Tribal Assistance Grants -- an account that includes the SRFs as well as other accounts that help states pay to implement agency programs -- the Senate proposes \$3.524 billion, compared with an administration request of slightly more than \$3 billion and the House level of \$2.946 billion.

### **Policy Provisions**

The Senate, which has generally opposed efforts to use funding measures as a vehicle for blocking Obama administration policies, omits virtually all of the policy riders the House included in its bill, including prohibitions on using funds to implement EPA's proposed landmark greenhouse gas standards for power plants, its Clean Water Act jurisdiction rule, a prohibition on regulating coal ash as "hazardous" waste, and other controversial policies.

The draft bill also comes just weeks after the Senate [dropped plans](#) to mark up an FY15 energy bill due to fears that senators critical of EPA's climate program had sufficient support to include a rider in the bill blocking agency rules. The White House has threatened to veto bills that block its climate and water rules.

The Senate bill does continue the existing "Buy American" mandate that requires any SRF-funded project to use a broad range of domestic iron and steel goods unless the recipient can secure a waiver from EPA. The House bill includes similar language, though an amendment added in committee expands some exceptions to the provision.

The Senate bill also includes no mention of the Water Infrastructure Finance and Innovation Authority, the novel funding pilot program enacted by this year's Army Corps of Engineers water project bill, a move seen as expected after the House EPA funding bill also did not include such language.

The legislation also includes an administration request to set aside 20 percent of the clean water SRF for green infrastructure projects, and it also includes a 10 percent set aside for the drinking water SRF, while the administration had proposed to leave that level at the discretion of states. -- *Lee Logan* ([llogan@iwppnews.com](mailto:llogan@iwppnews.com)) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )

# Senate Democrats Join Critics Of EPA's Clean Water Act Jurisdiction Rule

Inside EPA/Posted: August 1, 2014

Key Senate Democrats are joining critics who have asked EPA to revise its regulatory package seeking to clarify the reach of the Clean Water Act (CWA), in a new letter that calls on the agency to clarify key terms in the regulation while also taking aim at the controversial "interpretive rule" exempting many farming practices from permit requirements.

The [July 31 letter](#), signed by 12 Democrats -- including key leaders as well several senators who are facing tough re-election races in farm states -- is the most direct criticism yet levied at the regulatory package by congressional Democrats, who have largely been a bulwark of support for EPA's proposal against attacks from industry and the GOP.

But the senators' letter underscores the broader criticism EPA has begun to field from [traditionally friendly corners](#) of the regulated community, including agriculture groups and state and local officials who have long urged EPA to clarify the scope of its CWA jurisdiction but are now increasingly charging that the rule as proposed would further confuse the already-uncertain state of the water law.

Senators signing the letter include Agriculture Committee Chairman Debbie Stabenow (MI), Judiciary Committee Chairman Patrick Leahy (D-VT), health committee Chairman Tom Harkin (D-IA) and Sen. Micheal Bennet (D-CO), chairman of the Senate Democratic Campaign Committee.

While the package is drawing broad criticism, President Obama has defended the measure, vowing recently [to oppose](#) congressional efforts to block the rule.

The criticism is directed at EPA's proposed rule seeking to clarify which smaller and isolated "waters" are subject to regulation under the CWA. The proposed rule, for example, says that all streams, as well as all waters and wetlands located in floodplains and riparian corridors, share a connection or "nexus" to downstream, traditionally regulated waters -- and are therefore subject to default regulation.

EPA and the Army Corps of Engineers jointly developed the proposal to clarify the law's reach in the wake of high court rulings that created uncertainty about when the waters are jurisdictional but critics charge that the measure would expand the law's reach.

## 'Interpretive' Rule

The administration also crafted a related "interpretive" rule, which took effect March 25, that exempts 56 recognized agricultural conservation activities -- such as brush management, herbaceous weed control, and fencing in crops -- from section 404 permit requirements by specifying that they are "normal farming" measures that are exempt from dredge-and-fill permits.

But that has also drawn charges that it would impose new regulatory requirements on farmers and EPA Administrator Gina McCarthy [has suggested dropping](#) the measure if it can agree with critics on an alternative approach.

The senators' letter echoes many of the criticisms the agency has already received over both the proposed rule and the "interpretive" rule, especially from farm groups.

"The proposed 'waters of the US' rule and the interpretive rule could undermine progress made in the 2014 Farm Bill if they create an atmosphere of uncertainty that results in fewer conservation practices or significant new burdens for our nation's farmers and ranchers," the letter says.

The senators' letter seeks more clarity in two areas of the rule: a specific definition of what constitutes a waterbody's "bed and bank," which they say "will significantly help resolve confusion as to which agricultural features can be classified as tributaries;" and a detailed guide to when ditches located in floodplains are jurisdictional.

"In a guidance document on the EPA website, it states that the agency intends to include ditches collecting runoff or drainage from crop fields as upland ditches. However, the rule itself mentions only "ditches that are excavated wholly in uplands, drain only uplands, and have less than perennial flow." Many producers are concerned because their farms contain fields in floodplains," and thus are not wholly in uplands.

The letter aims more general criticism at the interpretive rule, saying the agency appears to be opening other "normal farming practices" to permit requirements or enforcement actions by leaving them off the list, even though officials say the rule was not meant to imply that only the 56 specified practices are exempt.

"[B]efore the release of the interpretive rule, the idea that conservation practices could ever trigger CWA permitting did not exist. By carving out a specific exemption for a certain number of conservation practices, an assumption has been created that but for this list, these certain conservation practices would have required a CWA permit," the Senate letter says. -- *David LaRoss* ([dlaross@iwpnews.com](mailto:dlaross@iwpnews.com))

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 072514 Clean Water Protection Rule Media Report - 23 items including LTE by Clean Water Action rep, more GOP Senators pile on ...  
**Date:** Friday, July 25, 2014 10:29:35 AM  
**Attachments:** [image003.png](#)  
[image010.png](#)  
[image011.png](#)  
[Analysis of AFBF response to EPA myth blog.pdf](#)

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FYI. My blog post linked below has a link to the attached document rebutting the latest Farm Bureau attacks.

Jon Devine

Senior Attorney, Water Program

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]

**Sent:** Friday, July 25, 2014 10:03 AM

**To:** Waage, Melissa

**Subject:** 072514 Clean Water Protection Rule Media Report - 23 items including LTE by Clean Water Action rep, more GOP Senators pile on ...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 25, 2014

## News Coverage

**Business Owners Want Clean Water Rules**, Environmental Leader, 07/24/14. The majority of small business owners favor federal protection of clean water and agree that clean water is necessary for a healthy economy and job creation, according to a national poll released by the American Sustainable Business Council (ASBC).

**Agricultural and environmental interest may be at odds**, Iowa Environment, 07/24/14. Earlier this week, Iowa Senator Chuck Grassley and several other members of the Senate Agriculture Committee met with U. S. Environmental Protection Agency Administrator Gina McCarthy. The aim of the closed-door meeting was to clarify several intersections between environmental regulations and agricultural practices. However, the meeting failed to resolve tensions between the two interests. Grassley released a statement noting his discontent with the EPA's efforts, stating that "the meeting did little to alleviate [his] concerns."

**EPA Meets with critics, seems determined to expand Clean Water Act**, Nebraska Radio Network, 07/25/14. The head of the Environmental Protection Agency has met with some of her fiercest critics, but seems unwilling to modify a proposed change to the Clean Water Act. Sen. Mike Johanns joined other Republican senators from the Senate Agriculture Committee in confronting EPA Administrator Gina McCarthy, arguing against expansion of the Clean Water Act which could lead to the regulation of ponds and

streams on farms.

**EPA speaks up on the Clean Water Act**, Hoosier Ag Today, 07/24/14. The EPA has been faced with the challenge of explaining their logic to the ag community where the Waters of the U.S. are concerned. “All agricultural exemptions that are in The Clean Water Act to begin with continue so therefore farmers are going to be able to do business just like they have been doing but even be more sure that they’re going to have clean water and that folks who are upstream cannot pollute their water.”

**TU volunteer from Colorado educates Congress on importance of Clean Water Act and headwater streams**, Angling Trade, 07/24/14. In Colorado, 55 percent of stream miles within historical native trout range are classified as intermittent or ephemeral, while 62 percent of the state’s stream miles are in headwaters, according to a recent report by Trout Unlimited. Some of these streams might not run year-round, but they are critical parts of the larger watershed—and the state’s quality of life. Jefferies, 58, owns a small construction firm and is president of a 1,000-plus member Trout Unlimited chapter in Northern Colorado. His farm upbringing made him appreciate the value of clean water to both agriculture and recreation.

## **Opinion**

**Clean Water Act revisions would benefit most Pennsylvanians, including farmers**, The Dallas Post/Wilkes-Barre, PA, (letter to the editor), 07/24/14. Brooks Mountcastle: Let’s be clear. A farmer can plow, cultivate seed, perform minor drainage, and harvest – ‘til the cows come home – because the administration’s proposal to protect clean water maintains all current agricultural exemptions in the Clean Water Act and even codifies additional waters that are explicitly exempted from permitting requirements. To claim anything else is disingenuous. It’s OK for the Farm Bureau to “make hay while the sun shines,” but it should not keep its members and The Times Leader’s readers in the dark about the benefits of EPA’s Clean Water rule. Brooks Mountcastle is Eastern PA director of Clean Water Action in Philadelphia.

**EPA’s Water Rule In Over Its Head [Opinion]**, Growing Produce, 07/24/14. Adam Putnam: Despite the federal government’s long history of egregious overreach and land grabs, it recently outdid itself. In April, EPA released proposed rules that have the potential to slow — if not reverse — America’s fragile economic recovery. The proposed rules redefine the term “water” in the Clean Water Act, fundamentally changing the intent of the act while dramatically expanding EPA’s jurisdiction and control over untold bodies of water in the U.S. and subjecting them to further regulation. Adam Putnam is the Florida Commissioner of Agriculture.

**Readers’ letters**, San Jose (CA) Mercury News, (letter to the editor), 07/24/14. Jonathan D’Souza: The House Appropriations Committee just passed a spending bill that threatens our air, our parks and our water. Despite the bill’s passage, I am proud of Rep. Michael Honda’s decision to protect our environment and vote against these attacks. The bill slashes funding for the EPA by \$700 million. It cuts the Land and Water Conservation Fund to one fifth its authorized level. It blocks efforts to curb global warming pollution and to restore full Clean Water Act protections to all California’s waterways. Jonathan D’Souza is with Environment California, Oakland.

**Why Hunters & Anglers Should Care About Clean Water Act Rules**, Michigan United Conservation Clubs, 07/24/14. MUCC is asking that organizations sign on the a letter of endorsement to say the outdoor community is in support of EPA’s proposed rules on the Clean Water Act. The link to the letter is found [here](#) and you can complete the form to sign on an organization that you represent.

## **Blogs/Social Media**

**BUSTED: Big Ag’s Big Myths About the Clean Water Act**, NRDC Switchboard blog, 07/24/14. Because a number of industry organizations, publicly led by the American Farm Bureau Federation, an agribusiness lobby group, have been attacking a [new clean water proposal](#) with a flood of overstatement, dishonesty, and flat-out falsehood, [clean water advocates](#), [other farming organizations](#), and even [the Environmental Protection Agency](#) have been forced to devote significant time and effort to rebutting myths that have been generated about the new Clean Water Protection Rule proposal.

**Will Clean Water Act foes leave small businesses high and dry**. Green Biz blog, 07/2/14. The

Environmental Protection Agency doesn't have an easy job. Just look at its work to protect clean water. Earlier this year, the EPA announced a draft "[Waters of the U.S.](#)" rule to clarify which bodies of water are protected under the Clean Water Act. Some in Congress, and some business groups — but not all — immediately began attacking.

**Western Land Commissioners Concerned About EPA Water Rule**, The Westerner blog, 07/24/14. Land commissioners from 23 western states gathered in Bismarck, North Dakota during July to discuss and debate policy issues affecting land management actions on over 440 million acres of state land and water throughout the western United States. The issue attracting the most attention was the federal Clean Water Act ("CWA"), and the Environmental Protection Agency's ("EPA") proposed rule change affecting Waters of the United States ("WOTUS").

**Protect Clean Water** - Baltimore, Md – On July 24th, Clean Water Action (CWA) held a press conference that kicked off the second half of the Environmental Protection Agency (EPA) Protect Clean Water comment period and highlighted a recent national poll conducted by the American Sustainable Business Council (ASBC). 80% of small business owners support the Administration's proposal to protect headwater streams and wetlands. <https://www.youtube.com/watch?v=8A7ki56TQEI>



### [Occupy Harrisonburg](#)

Under Water: The EPA's Struggle To Combat Pollution. Frustration and inaction. ProPublica JV [#ows](#) [#ohb](#)  
<http://www.propublica.org/article/under-water-the-epas-struggle-to-combat-pollution>



**U.S. EPA Water** [@EPAwater](#) 9m

Waters that have never been protected remain outside the scope of the **Clean Water Act**.  
[#ditchthemyth](#) [go.usa.gov/XdkQ](http://go.usa.gov/XdkQ)



**540 AM WRGC** [@WRGCAM](#) 4h

North Carolinians Push to reinstate **Clean Water Act** Rules [ow.ly/zyd4b](http://ow.ly/zyd4b)



**Nadine B. Hack** [@NadineHack](#) 4h

Will **Clean Water Act** foes leave small businesses high and dry? [ift.tt/1nltHZ9](http://ift.tt/1nltHZ9) [#sustainability](#)



**Michael E. Campana** [@WaterWired](#) 5h

[@EPA](#) & [@USACEHQ](#) Proposed Rule Defining “Waters of the United States” Under the **Clean Water Act** [is.gd/Tb05pb](#) [@JDSupra](#)



**NRDC Water** [@NRDCWater](#) 6h

New [@NRDC](#) Issue Brief: Waste Less, Pollute Less: Using Urban Water Conservation to Advance [#CleanWaterAct](#) Compliance [ow.ly/zvZpw](#)



**iowaccki** [@iowaccki](#) 8h

97 PERCENT of commenters during first 28-days want the **Clean Water Act** rule strengthened! [shrd.by/yKB1hz](#) [shrd.by/D8Hj0p](#)



**Scott Feldman Esq.** [@sfeldman0](#) Jul 24

Will **Clean Water Act** foes leave small businesses high and dry?: What do the small business owners think of the... [bit.ly/1sWWGFN](#)



**NebraskaRadioNetwork** [@nebraskanews](#) 1h

EPA meets with critics, seems determined to expand **Clean Water Act** (AUDIO) [goo.gl/fb/rj4QFV](#)



**Texas Eco News** [@TexasEcoNews](#) 3h

[#Texas](#) [#Environment](#) Letter to the Editor: **Clean Water Act** revisions would benefit most Pennsylvanians, including... [ift.tt/1ICzUvd](#)



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 072414 Clean Water Protection Rule Media Report - 25 items including new poll: small business supports clean water rules, more from Rocky Mt Farmers Union...  
**Date:** Thursday, July 24, 2014 2:16:50 PM  
**Attachments:** [image003.png](#)  
[image006.png](#)

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]

**Sent:** Thursday, July 24, 2014 10:15 AM

**To:** Waage, Melissa

**Subject:** 072414 Clean Water Protection Rule Media Report - 25 items including new poll: small business supports clean water rules, more from Rocky Mt Farmers Union...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 24, 2014

## News Coverage

**Advocacy group says new poll shows support among small business owners for stronger clean water rules**, McClatchy Washington Bureau, 07/23/14. The poll of small-business owners found that two-thirds were concerned about the impact water pollution could have on their businesses, and 80 percent favored extending federal clean water protections to streams and wetlands. Support on the second issue was strongest among Democrats, at 91 percent, but Republicans and independents also polled above 70 percent. The poll was commissioned by the American Sustainable Business Council, an advocacy organization that, according to its Web site, promotes "economic development along with shared prosperity, environmental protection and social justice."

**Colorado farmers break ranks with 'big ag' lobby**, The Durango (CO) Herald, 06/23/14. Groups like the American Farm Bureau Federation and other "big ag" organizations are protesting proposed federal rules that would redefine which bodies of water are regulated under the Clean Water Act. Among the exceptions to that protest are farmers represented by the Denver-based Rocky Mountain Farmers Union. Bill Midcap, director of external affairs with the union, said he and his peers recognize the importance of maintaining the state's limited water supply.

**Senate Republicans Meet with EPA's McCarthy on Regs**, The Hill, 07/23/14. Republicans on the Senate Agriculture Committee met with Environmental Protection Agency (EPA) chief Gina McCarthy to criticize the agency's proposal to redefine its jurisdiction under the Clean Water Act. Cochran has sponsored legislation



that would force the EPA to withdraw the rule. He and other Republicans fear that it would result in the EPA controlling ditches, ponds and puddles, which would make it difficult or impossible for farmers to carry out many common activities.

**EPA 'Losing Friends' Among Industry, State in Battle Over CWA Rule**, Inside EPA, (see below), 07/24/14. EPA is facing criticism of its proposed rule defining the scope of the Clean Water Act (CWA) even from "friendly" stakeholder groups that previously called for a rulemaking to clarify the water law's jurisdiction, underscoring the hostile reception the agency's proposal has received from regulated entities. Agriculture groups and state and local regulators are increasingly arguing that if the administration finalizes the rule as proposed it would further confuse the already-uncertain landscape of CWA jurisdiction, even when, unlike many industry opponents, they agree with the rule's goals. Although environmentalist and conservationist groups continue to defend the proposed rule, "EPA is losing friends on this, and that's not very good," says a former agency official.

**GOP senators accuse EPA chief of targeting farmers, ranchers**, E & E News, (see below), 07/23/14. The meeting came as EPA is stepping up its outreach to rural and agricultural communities, particularly around a controversial proposed water regulation. McCarthy gave a major speech aimed at patching up her agency's relationship with farmers during a trip to Missouri two weeks ago. But the GOP lawmakers said those efforts fell flat among agricultural producers and took issue with McCarthy's dismissal of some concerns about the rule.

**Cochran continues to question EPA over new regulations**, Mississippi Business Journal, 07/23/14. U. S. Senator Thad Cochran (R-Miss.) ranking member of the Senate Agriculture Committee, continues to raise questions about the impact on agriculture and rural economies of the new Clean Water Act regulations proposed this spring by the Environmental Protection Agency (EPA).

**Clarifying the Clean Water Act**, Milwaukee (WI) Riverkeeper, 07/23/14. This proposed rule clarifies which waters are included as "Waters of the U.S." under the CWA and subject to regulation under CWA programs, such as permitting for pollutant discharge, dredging or deposit of fill material in waterways, as well as oil spill prevention. We appreciate the consideration of our comments on the proposed rule and urge the agencies to adopt a rule that will clarify protections under the CWA to best protect our waterways.

**What do the proposed EPA rules really mean**, Farm & Ranch Guide, 07/23/14. The current proposal deals with Waters of the U.S. (WOTUS). It is not being welcomed by farm organizations, such as the American Farm Bureau Federation (AFBF) and the National Farmers Union (NFU). The primary reason it is not being welcomed is because it is hard to understand. When lobbyists and attorneys at Washington-based national farm groups find the proposed rule confusing and are in need of clarification, it is not surprising that farmers, who already deal with more rules and regulations than they should be expected to handle, also are confused.

**Environmental Protection Agency and US Army Corps of Engineers proposed Rule Defining "Waters of the United States" Under the Clean Water Act**, Costal News Today, 07/24/14. The Agencies claim that the purpose of the proposed rule is to clarify the definition of WOUS in light of the Supreme Court's decisions in *United States v. Riverside Bayview*,<sup>[1]</sup> *Rapanos v. United States*,<sup>[2]</sup> and *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (SWANCC),<sup>[3]</sup> the latter two of which narrowed the scope of WOUS and the Agencies' CWA jurisdiction.

## **Opinion**

**Yet another Georgia river in peril**, Bryan County (GA) News, 07/23/14. The solutions proposed by environmentalists seem to be common sense. Restore the Clean Water Act protections to all American waterways while also requiring that industries reduce use of toxic chemicals and stop putting them in public waters. The public also needs to be kept informed, and to pay attention.

**Property Rights at Stake in EPA's Water Power Grab**, The (Heritage Foundation) Daily Signal, (op-ed), 07/23/14. Daren Bakst: Ultimately though, it is the responsibility of Congress to define the term "navigable waters" instead of deferring to the EPA and the Corps. History shows these agencies will continue to seek to expand their authority. As with other laws, Congress needs to reassert its authority and rein in agency overreach. Private property rights are at stake. Daren Bakst is the Heritage Foundation research fellow in

agricultural policy.

**Time to send a clear message to EPA**, Midwest Producer, (op-ed), 07/23/14. Jackie McClaskey: Kansas Gov. Sam Brownback recognizes the importance of Kansas water supplies and has called for the development of a 50-year Vision for Water in Kansas. However, the Federal Government believes it knows better. The heavy-handed overreach of the Environmental Protection Agency continues to threaten the livelihood and rights of Kansans. Kansas business owners, industry leaders and farm and ranch families will all be affected if the proposed rule addressing the Clean Water Act is pushed through. Jackie McClaskey is Kansas Secretary of Agriculture.

**Drunk with power, agencies come for our water**, Elko (NV) Daily Free Press, (op-ed), 07/23/14. Thomas Mitchell: First, the Environmental Protection Agency rewrote the rules for the Clean Water Act in such a way that gives it authority over just about any stream, dry creek bed or backyard wading pool in the country, even though the law as originally written was meant to protect navigable interstate waterways from pollution. This would allow the Interior Department to require a permit and demand a fee for any work that alters the flow of water near any rivulet — anything from dredging an irrigation ditch to terracing a field — on public or private land. Thomas Mitchell is a longtime Nevada newspaper columnist.

**EPA proposed radical regulatory agenda**, Bandera County (TX) Courier, 07/24/14. Rep Lamar Smith: The EPA's new water rule attempts to give the federal government regulatory power over virtually all natural and manmade water sources in the US. And the recent power plant rule imposes an outrageous scheme that would reach all the way into our homes, forcing energy rationing, costing thousands of jobs and driving up electricity prices. In the EPA's water rule, the Obama administration redefines what "waters of the United States" means in the Clean Water Act. By reinterpreting the law, the EPA could dramatically expand the agency's federal authority over state, local and even private property. Republican Lamar Smith represents the 21<sup>st</sup> District of Texas.

**Update: Progress on #DitchtheRule Campaign**, The Farmer's Daughter, 07/24/14. We have a couple updates regarding the EPA's proposed water rule that would vastly expand the definition of water under the Clean Water Act. In an email update earlier today, American Farm Bureau Federation noted a few positive developments in the #DitchTheRule campaign.

## **Blogs/Social Media**

**Will Clean Water Act foes leave small businesses high and dry?**, Green Biz blog, 07/24/14. The reaction to the rule's announcement was predictable, if disappointing. Opponents argue that it represents a land grab by the EPA that will kill jobs and put our agricultural system at risk. Some members of Congress propose legislation to block the rule from being implemented, even before the comment period ends in October. So it might surprise you to learn that 80 percent of small business owners actually support that proposal. Yes, that's right: four out of five small business owners think it's a good idea for the government to protect clean water.

**Small Business Owners Want Clean Water Protections**, NRDC Switchboard blog, 07/23/14. 80 percent of small business owners favor restoring federal clean water protections to streams and wetlands, according to a new poll. These are some of the very waterbodies that the Environmental Protection Agency and the U.S. Army Corps of Engineers propose to protect in the Clean Water Protection Rule, which will determine what bodies of water are protected by the Clean Water Act, the nation's principal safeguard against water pollution

**Roberts to EPA Administrator: Farmers and Ranchers Under Attack from Agency**, The Westerner blog, 07/23/14. In a meeting today with Senate Agriculture Committee Republicans and Gina McCarthy, Administrator of the Environmental Protection Agency (EPA), U.S. Senator Pat Roberts said the agency has unfairly targeted farmers, ranchers and rural America with burdensome regulations. In the meeting, Roberts expressed frustration with the Agency's recent dismissal of concerns from Kansans regarding the proposed Waters of the U.S. rules. Roberts took issue with the EPA's recent campaign calling these concerns "myths." "Just two weeks ago, you were in Missouri to meet with producers regarding the proposed Waters of the United States regulation.



**National Wildlife** @NWF

80% of small business owners favor federal rules to protect our nation's water: [bit.ly/CleanWaterRepo...](http://bit.ly/CleanWaterRepo...) #ProtectCleanWater



**U.S. EPA** ✓ @EPA

Our proposed rule to protect clean water does NOT regulate floodplains. Plain and simple. #ditchthemyth  
<http://go.usa.gov/XdkQ>



**NRDC New York** @NRDCNY 2h

Waste Less, Pollute Less: Using Urban #Water Conservation to Advance **Clean Water Act** Compliance: [bit.ly/1x1v1kQ](http://bit.ly/1x1v1kQ).



**Lloyd Bentsen IV** @lbentsen4 1h

Congressional hearing on the #EPA's expanded interpretation of its Permit Veto Authority under the CWA @NCPA [bit.ly/1r8bXj7](http://bit.ly/1r8bXj7)



**Yall Politics** @MSyallpolitics 5h

Senator Cochran questions EPA, **Clean Water Act** impact on agricultural and rural economies  
[yallpolitics.com/index.php/yp/p...](http://yallpolitics.com/index.php/yp/p...)



**Scott Feldman Esq.** @sfeldman0 2h

Will **Clean Water Act** foes leave small businesses high and dry?: What do the small business owners think of the... [bit.ly/1sWWGFN](http://bit.ly/1sWWGFN)



**Environment Texas** @EnvironmentTex 15h

Petitioning to close the loopholes in the **Clean Water Act** @sfcmarkets at the Triangle in Austin!  
[instagram.com/p/qzuqQwHC51/](http://instagram.com/p/qzuqQwHC51/)

Inside EPA - 07/25/2014

# EPA 'Losing Friends' Among Industry, States In Battle Over CWA Rule

Posted: July 23, 2014

EPA is facing criticism of its proposed rule defining the scope of the Clean Water Act (CWA) even from "friendly" stakeholder groups that previously called for a rulemaking to clarify the water law's jurisdiction, underscoring the hostile reception the agency's proposal has received from regulated entities.

Agriculture groups and state and local regulators are increasingly arguing that if the administration finalizes the rule as proposed it would further confuse the already-uncertain landscape of CWA jurisdiction, even when, unlike many industry opponents, they agree with the rule's goals.

Although environmentalist and conservationist groups continue to defend the proposed rule, "EPA is losing friends on this, and that's not very good," says a former agency official.

Such comments are further building the case for EPA and the Army Corps of Engineers to significantly revise the proposed rule before taking final action, as top officials have recently signaled is likely.

"We did ask for clarity [before the rule proposal] -- the situation is in need of clarity. But what we've seen in setting after setting is that this proposal has created a great deal of confusion, and we are definitely hoping that EPA will address that. But whether they do is up to them," says one local government source.

The measure is intended to provide regulatory certainty in the wake of competing Supreme Court tests for how to determine whether smaller waters are jurisdictional.

In particular, the source says local regulators are worried that the rule as proposed by EPA and the Corps April 21 will create contradictory interpretations of when marginal wetlands and ephemeral streams are jurisdictional and could also be interpreted to make stormwater channels and other water infrastructure that discharges to protected waters into jurisdictional waterbodies in their own right.

Local government groups and some Democratic lawmakers have raised concerns about how the proposal might affect green infrastructure systems such as bioswales and retaining ponds -- which EPA is seeking to encourage.

Most recently, during a June 11 hearing of the House Transportation & Infrastructure Committee's water resources panel, the National Association of Counties' (NACO) Dusty Williams raised concerns in his written testimony that the proposed CWA rule would allow regulators to assert jurisdiction over stormwater systems.

And a source tracking the issue says the proposal needs "further clarification" on green infrastructure and stormwater systems, adding that some of those structures "may meet the definition of a tributary" in the proposed rule.

On the agriculture front the National Farmers Union (NFU), one of the few farming industry groups that initially praised EPA for proposing the CWA rule, is now raising similar concerns. The group wrote to Administrator Gina McCarthy July 17 asking for clarification on a series of definitions and procedural questions they say the rule raises but does not definitively answer. *The letter is available on InsideEPA.com. (Doc. ID: [2477619](#))*

"The general sense was that the proposed rule has created less clarity, not more as was intended. I strongly urge you . . . to provide clear answers to questions posed by the agricultural community," the letter says.

NFU in the letter asks the agency to clearly define "ditches" and "standard farming practices" in the rule, to explain how regulators would decide whether particular waters are jurisdictional and to explain public estimates that the rule would expand the area of jurisdictional waters by 3.2 percent.

That question of "standard farming practices" is at the heart of debate over EPA's controversial interpretive rule, released in concert with the jurisdiction proposal, that seeks to exempt dozens of agricultural practices from CWA dredge-and-fill permit requirements. The **measure has drawn widespread concerns from traditional critics**, including industry and GOP officials, who fear it will unintentionally create new enforcement opportunities for both federal officials and environmentalists.

**The former EPA official says the agency's difficulties in winning support** for the rule come in part from "this situation where EPA keeps throwing something at the wall and seeing if it sticks. . . . They've put together all these

concepts in the proposal and taken together it just gives the impression that EPA could take more than it intends to take," by rendering many currently unprotected waters jurisdictional.

The smoothest road forward for EPA could be to convene stakeholder meetings that would give groups like NFU and NACO a more concrete voice in crafting the rule.

"What needs to happen is the agency should put the question to them rather than have EPA try to solve it with the power of the pen, because that has not worked out," the source says.

And the NFU letter says EPA may also be suffering fallout from a November proposal to drastically cut 2014 targets for corn-based ethanol fuels through the Renewable Fuel Standard (RFS), after agriculture groups pressed for a high target.

"EPA's reputation was very severely damaged in farm country with the recent proposal to significantly undercut the Renewable Fuel Standard -- and that likely led to the surliness with which the proposed [CWA] rule was received," the NFU letter says.

McCarthy has already signaled that she is open to dropping the interpretive rule entirely if the agency can work out an alternative approach with stakeholders. "Is the interpretive rule the best way to do that? Let's figure that out together," she told the Agricultural Business Council of Kansas City, MO, in a July 10 speech. "I am about outcomes, not process," she said (*Inside EPA*, July 18).

Administration officials have also said that the proposed CWA rule is open to revision (*Inside EPA*, June 13). At the June 11 House hearing, EPA Deputy Administrator Bob Perciasepe said in prepared testimony that the agency will "finalize revisions that further clarify our regulations and make them more effective in implementing the statute, consistent with the law and sound science."

And Jo-Ellen Darcy, Assistant Secretary of the Army for Civil Works, said in response to a line of questioning from Rep. John Garamendi (D-CA) that the agencies will consider revisions "if we're not clear enough, or the definitions aren't what they should be."

## **GOP senators accuse EPA chief of targeting farmers, ranchers**

Annie Snider, E&E reporter

Published: Wednesday, July 23, 2014

GOP agriculture leaders in the Senate are blasting U.S. EPA Administrator Gina McCarthy following a meeting with the environmental chief yesterday, accusing her agency of "unfairly target[ing]" farmers and ranchers.

"Kansans tell me the Agency's work to regulate fuel storage tanks, prescribed burning of the Flint Hills prairie, cap and trade, pesticide permits, fugitive dust, let alone coal power and our water resources is an assault on our way of life," Sen. Pat Roberts (R-Kan.) said in a statement following the meeting. "The rocky relationship between Midwest agriculture and the EPA is not new, but the latest round of proposed regulations is making many folks believe the rules are driven by an anti-agriculture agenda that is hurting the Kansas economy."

The meeting came as EPA is stepping up its outreach to rural and agricultural communities, particularly around a controversial proposed water regulation. McCarthy gave a major speech aimed at patching up her agency's relationship with farmers during a trip to Missouri two weeks ago ([\*E&ENews PM\*](#), July 10).

But the GOP lawmakers said those efforts fell flat among agricultural producers and took issue with McCarthy's dismissal of some concerns about the rule.

"The waters of the United States proposal and the agriculture interpretive rule are a source of uncertainty, anxiety and distrust for people in rural areas," Sen. Thad Cochran (R-Miss.) said. "This is particularly true for states like Mississippi whose economies are built on agriculture production and where landowners want the peace of mind that what they are doing is not subject to ever more regulations."

The House has already passed legislation with a provision to block the water proposal, which would increase the number of streams and wetlands that receive automatic protection under the Clean Water Act. Other bills

targeting the proposal are moving through the lower chamber (*E&ENews PM*, July 16).

In the Senate, Sen. John Barrasso (R-Wyo.) has a measure ([S. 2496](#)) to block the proposal that so far has garnered 37 co-sponsors -- all Republican. GOP efforts to force a vote on the water proposal, among other environmental issues, as part of an energy and water spending bill last month resulted in Democratic leaders pulling the bill (*Greenwire*, June 19).

Twitter: [@AnnElizabeth18](#) | Email: [asnider@eenews.net](mailto:asnider@eenews.net)

## Document 69

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 072314 Clean Water Protection Rule Media Report - 20 items including Sen. Roberts sides with farmers...  
**Date:** Wednesday, July 23, 2014 10:34:09 AM  
**Attachments:** [image002.png](#)  
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[image015.png](#)  
[image016.png](#)

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]

**Sent:** Wednesday, July 23, 2014 10:09 AM

**To:** Waage, Melissa

**Subject:** 072314 Clean Water Protection Rule Media Report - 20 items including Sen. Roberts sides with farmers...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 23, 2014

## News Coverage

**Senator Roberts To EPA Administrator: Farmers And Ranchers, Rural America Under Attack From Agency**, Ag View, 07/22/14. In a meeting Tuesday with Senate Agriculture Committee Republicans and Gina McCarthy, Administrator of the Environmental Protection Agency (EPA), U.S. Senator Pat Roberts said the agency has unfairly targeted farmers, ranchers and rural America with burdensome regulations. "Kansans tell me the Agency's work to regulate fuel storage tanks, prescribed burning of the Flint Hills prairie, cap and trade, pesticide permits, fugitive dust, let alone coal power and our water resources is an assault on our way of life," Roberts said.

- **Court presents preservation award; votes to oppose changes to Clean Water Act**, Mineola (TX) Monitor, 07/23/14. A resolution to oppose the "proposed new rule to define the Waters of the United States under the



Clean Water Act” was approved by the court. Pct. 3 Commissioner Roger Pace said the proposed new rule could put unnecessary and burdensome regulations on farmers, ranchers and others who live in rural areas, since it would require those landowners to “obtain... costly permits for the construction of small bridges and culverts, and routine maintenance of some ditches, canals and other such water conveyances.” Pace went on to say the proposed rule would infringe on private property rights, as well as undercut the state’s right to regulate its own waters. The commissioners voted unanimously to approve the resolution.

**EPA and USACE Issue Proposed Rule for CWA**, Dredging Today, 07/22/14. The proposal sets forth several categories of waters to be included in the definition as well as established waters that are subject to the Act. This proposed rule was made in light of the Supreme Court cases in U.S. v. Riverside Bayview, Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers and Rapanos v. United States — regarding the determination of which streams and which wetlands were subject to the Clean Water Act protection.

## **Opinion**

## **Blogs/Social Media**

—  
Entire presentation from Gina McCarthy addressing the Waters of the US proposed rule. Ms. McCarthy presented in front of the Agricultural Business Council of Kansas City, a room full of farmers, ranchers and agribusiness professionals.

<https://www.youtube.com/watch?v=nZdteZji8-s>



**Clean Water Action** @cleanh2oaction · [15h](#)

CWA's very own Andy Fellows on why he -as mayor of college park- supports the EPA Clean Water Rule <http://bit.ly/1lrwued> [#protectcleanwater](#)



**Clean Water Action** @cleanh2oaction · [15h](#)

Providence stands up

to [#ProtectCleanWater](#) - <http://bit.ly/1p7CIXL> Thanks [@SethYurdin](#) & [@Angel\\_Taveras](#)!



**Clean Water Action** @cleanh2oaction · [22h](#)

Kids get it - <http://ow.ly/i/6jd5m> - they want [@EPA](#) to [#ProtectCleanWater](#), NOT [#DitchTheRule](#). Join them - <http://www.protectcleanwater.com>



**U.S. EPA Water** @EPAwater · [35m](#)

Our proposal to protect clean water won't affect state water laws, including those on water supply and use. [#ditchthemyth...](#)





**GOVERNING** @GOVERNING 6h

Why some localities oppose rules to clarify what has to abide by the **Clean Water Act** <http://ow.ly/zeSVP>  
[pic.twitter.com/2t4OxS16qp](http://pic.twitter.com/2t4OxS16qp)



**Environmental Law** @Energy\_Alerts 4h

New Definition of Waters Protected Under the **Clean Water Act** Proposed <http://bit.ly/1nyzPOL>



**Western Gobs Assoc.** @westgov 7h

Learn why the [@EPA](#) now admits it has created 'Bonafide Confusion' on Clean Water Rule <http://ow.ly/zkEug>



**AgProfessional** @AgProfessional 13h

CropLife America is concerned about potential impacts of new **Clean Water Act** proposed regulations on crop protection <http://www.agprofessional.com/news/CLA-responds-to-EPAs-Waters-of-the-US-rulemaking-267991361.html?lmsms=921651&c=y...>



**Cerebellum Beverages** @CerebellumH2O 8h

New Definition of Waters Protected Under the **Clean Water Act** Proposed <http://dlvr.it/6PL5YL>



**Claudia Putnam** @lioncaller 13h

Colorado farmers break with big agriculture to demand **Clean Water Act** preservation. [@GlenwoodPI](#). [@joeybunch](#). via [@PNS\\_CO](#)



**Chezarina Christiana** @ChezarinaC 14h

NC Sportsmen rally behind **Clean Water Act** proposals (National Wildlife Federation) <http://cur.lv/bflq0>



**Ziffie** @Ziffie 14h

EPA & COE Propose Rule Defining Waters of the United States Under **Clean Water Act** (water-filled

depressions exempt!) <http://www.jdsupra.com/legalnews/environmental-protection-agency-and-us-25971/> ...



**cath\_belna** @cath\_belna [16h](#)

Environmental Protection .... "Waters of the United States" Under the **Clean Water Act**  
<http://www.jdsupra.com/legalnews/environmental-protection-agency-and-us-25971/> ...



**Natalia** @MNMCompanies [18h](#)

[@realtors](#) "NAR Testifies Against Expanded **Clean Water Act** Regulations. Read more:  
<http://bit.ly/1pALauR> "



**Adam Van Grack** @WhitewaterAtty [20h](#)

Support for the [@EPA](#) proposed rule to restore [#CleanWaterAct](#) protections in Colorado in  
[@ChieftainNews](#). [http://www.chieftain.com/opinion/2745531-120/act-clean-colorado-epa ...](http://www.chieftain.com/opinion/2745531-120/act-clean-colorado-epa...)



**MCEA** @MCEA1974 [21h](#)

Tweet your US Rep. & urge them to sign on a letter supporting the CleanWaterRule  
<http://ow.ly/zrGVN> w/ other Reps [pic.twitter.com/SydMOrA4TD](http://pic.twitter.com/SydMOrA4TD)

## Document 70

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 072214 Clean Water Protection Rule Media Report - 26 items including more WOTUS support from Colorado and Pennsylvania ...  
**Date:** Tuesday, July 22, 2014 10:54:12 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image007.png](#)

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Tuesday, July 22, 2014 10:12 AM  
**To:** Waage, Melissa  
**Subject:** 072214 Clean Water Protection Rule Media Report - 26 items including more WOTUS support from Colorado and Pennsylvania ...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 22, 2014

### News Coverage

**Colorado Farmers Break Ranks with Big Ag Lobby**, Public News Service/Denver, CO, 07/22/14.  
Groups like the American Farm Bureau Federation and other "big ag" organizations are protesting proposed federal rules that would redefine which bodies of water are regulated under the Clean Water Act. While opponents of the proposed regulations say they place a burden on the farm community, the Rocky Mountain Farmers Union launched a campaign this month called "They Don't Speak for Me," intended to underline the fact not all farmers agree with the "big ag" lobby's opposition to the water rules.

**Ontario County leaders weigh EPA's proposed water rules**, (Canandaigua, NY) Daily Messenger, 07/22/14. With Ontario County home to four Finger Lakes and a focal point for New York agriculture, possible changes to federal control of waterways present a big concern. At the July 10 county Board of Supervisors meeting, the board stopped short of voting on a resolution opposing the expanded controls — a resolution that was before the board for a second time. Seneca Town Supervisor John Sheppard asked that the matter be referred back to committees for further discussion.

**Some farmers believe EPA overreaches in Water Act clarification**, The (Cedar Rapids, IA) Gazette, 07/21/14. "The proposed Waters of the U.S. rule does not regulate new types of ditches, does not regulate activities on land, and does not apply to groundwater," Stoner wrote. "The proposal does not change the exemption for stock ponds, does not require permits for normal farming activities like moving cattle, and does not regulate puddles." An EPA official went further, talking to The Gazette. "There is nothing in what the agency has done that would preclude a farmer from continuing to engage in the practices that farmer does today," he said.

**EPA Sets Sights on Clean Water Act Improvements; Comment Today**, Michigan United Conservation Clubs, 07/21/14. This newly proposed rule, while much needed, has been met with a great deal of skepticism and misinformation from many individuals and groups, both in Michigan and across the nation. There is a certain degree of distrust that this will be another set of burdensome rules put onto the backs of Americans. We will be posting more soon about why we believe conservationists and sportsmen and women should be supporting these changes.

**Farmers, conservationists split on Water of the U.S. rule**, AG Week, 07/21/14. Conservation groups are mounting a campaign in defense of the Environmental protection Agency's Water of the U.S. rule. Meanwhile, farm leaders and Republicans in the House move bills to try to stop the EPA and U.S. Army Corps of Engineers from proceeding with the rule on the grounds that it expands jurisdiction into bodies of water on farms.

**EPA in hot water over proposed CWA rule**, Pork Network, 07/21/14. Despite a recent public relations campaign through Missouri farm country to attempt to calm the waters about the proposed changes to the definition of "Waters of the United States" under the Clean Water Act, EPA continues to take heat from farmers and ranchers, and lawmakers. "The board asked for clarity surrounding some of the definitions in the proposed rule. The general sense was that the proposed rule created less clarity, not more as intended," Johnson said.

## **Opinions**

—  
**EPA Plan Right for Colorado**, Pueblo (CO) Chieftain, (letter to the editor), 07/21/14. Ellen Plane: The Lower Arkansas Valley Water Conservancy District's logic in opposing the EPA's proposed rule to restore Clean Water Act protections is inherently flawed. Ephemeral streams account for much of Colorado's surface water, and currently 73,000 miles of Colorado streams may not receive any protection from toxic pollution under the Clean Water Act. Ellen Plane resides in Denver, CO.

**Letter: RE: 'Farms EPA on shaky ground,'** (Sioux Falls, SD) Argus Leader, 07/21/14. Jack D. Sears: The restoration of the Clean Water Act protections for our health and quality of life are common sense. According to the EPA and NRCS, all the exemptions that farms now have from the Clean Water Act would be preserved. These rules will directly benefit South Dakotans as well, as right now more than 85 percent of our streams are at risk of unchecked pollution. I urge Sen. Tim Johnson to continue his support for keeping South Dakota's waters clean and support the EPA's proposed rules. Jack Sears is with Environment America.

**Flood of misinformation**, The (Scranton, PA) Times-Tribune, 07/22/14. Guest columnists Adam Garber and Hannah Smith Brubaker: Sen. Pat Toomey cosponsored a bill that would stop this rule, shutting down the process for restoring protections before the EPA and Army Corps of Engineers even have the chance to finish taking public comment. Fortunately, some of our members of Congress, including Sen. Bob Casey, are standing up for Pennsylvania's waterways, not the polluters. With the drinking water for 8 million Pennsylvanians on the line, restoring these protections can't wait. We urge our members of Congress to oppose any dirty water bills and support the EPA and Army Corps of Engineers' efforts to fix the Clean Water Act now. Adam Garber and Hannah Smith Brubaker are with the Pennsylvania Farmers Union.

## **Blogs/Social Media**

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**Farm Bureau decodes water rule proposal, asks EPA to rescind**, Idaho Farm Bureau blog, 07/21/14. AFBF's document explains – with specific citations to the proposed rule and other authorities – how the rule would give EPA broad Clean Water Act jurisdiction over dry features and farming practices long declared off-limits by Congress and the nation's highest court.

**New Legislation Would Stop WOTUS Rulemaking**, Minnesota Farm Bureau blog, 07/21/14. The bill prohibits the Environmental Protection Agency and the Army Corps of Engineers from developing, finalizing, adopting, implementing, applying, administering or enforcing the proposed WOTUS rule. State Farm Bureaus are encouraged to seek congressional support for the bill. Broad bipartisan support will help ensure that the House considers the legislation this fall.

**“Waters of the US” rule**, Minnesota Center for Environmental Advocacy blog, 07/21/14. We at MCEA believe they did a pretty good job, and that the new rule deserves support. But interest groups from industries like agriculture and mining are out convincing their folks that this is the greatest federal power grab of all time that the EPA and the Corps are going to require federal permits for most normal farming practices, and that they were not consulted. None of that is even remotely true.



**Chad Zenisek** @ChadZenisek Jul 21

Are EPA critics and the Iowa Farm Bureau overreacting to this **Clean Water Act** rule? "Land grab" or Grassley stunt? [thegazette.com/subject/news/b](http://thegazette.com/subject/news/b)...



**GOVERNING** @GOVERNING 14h

Some think the rules meant to clarify the 1972 **Clean Water Act** just add more confusion  
[ow.ly/zeSVP](http://ow.ly/zeSVP) [pic.twitter.com/eer3XzXMVY](http://pic.twitter.com/eer3XzXMVY)



**Float For Life** @FloatForLife 52m

Ever wonder what is actually in the **clean water act**? It's right here: [buff.ly/1kJh3P9](http://buff.ly/1kJh3P9)



**Christina Toms** @Piranha426 8h

In all seriousness, [@EPAwater](#) is a great feed, especially in light of the proposed revisions to Section 404 of the **Clean Water Act**.



**brian castellani** @castellani 14h

Some think the rules meant to clarify the 1972 **#CleanWaterAct** just add more confusion  
[ow.ly/zeSVP](http://ow.ly/zeSVP) [pic.twitter.com/iYhGMJfvyD](http://pic.twitter.com/iYhGMJfvyD)



**Patagonia Alliance** @PARAalliance 14h

Muddying the Waters: House Committee Guts **Clean Water Act** Protections via [@Earthworks](http://@Earthworks)  
[ow.ly/zmWs6](http://ow.ly/zmWs6)



**MUCC** @MUCC1937 19h

The EPA wants to set new rules concerning the **Clean Water Act**. You can let your voice be heard on the matter... [fb.me/1qujoOPrc](http://fb.me/1qujoOPrc)

10:35 AM - 21 Jul 2014 · [Details](#)



#IFBF14

**Sara Payne** @IowaFarmBureau 22h

Chris Gruenhagen discussing EPA's **Clean Water Act** rule at [#IFBF14](http://#IFBF14) . [#DitchTheRule](http://#DitchTheRule)



**Environment Guru** @environmentguru Jul 21

Wilmington neighborhood affected proposal to **Clean Water Act**: In Coastal North Carolina, water is... [bit.ly/1n3EM12](http://bit.ly/1n3EM12) **#CleanWaterAct**



**NE-MW Institute** @NEMWUpperMiss Jul 21

Association of State Wetland Managers: "**Clean Water Act** Jurisdiction, Polluters and Clean Water"  
[ow.ly/zoaS7](http://ow.ly/zoaS7)



**MichiganOutofDoors** @MIOutofDoors\_ 19h

The EPA wants to set new rules concerning the **Clean Water Act**. You can let your voice be heard on the matter... [fb.me/43KUQCGiS](https://fb.me/43KUQCGiS)



**Central Illinois Ag** @CentralllAg\_ 22h

Gilinsky: 2/3 of states rely on federal definitions in **Clean Water Act**.



**Daniel Stoehr** @DanielsTraining\_ 18h

Oct. 21st is the new deadline for comments to the reg change for "Waters of the US". [ow.ly/zlXFk](https://ow.ly/zlXFk)



**Camp 2 Fires** @camp2fire\_ 18h

This is important because without clean water nothing lives. [fb.me/19KDzuTha](https://fb.me/19KDzuTha)

**From:** [Devine, Jon](#)  
**To:** [Evans, David](#); [Kopocis, Ken](#); [Srinivasan, Gautam](#)  
**Subject:** Fwd: Waters of the U.S. Roundtable Presentation  
**Date:** Tuesday, July 22, 2014 8:19:29 AM

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Ken/Dave/Gautam:

Nice to see you yesterday. In reviewing Virginia Albrecht's presentation, the slide that gave me the most concern was the one suggesting that EPA approved treating ephemeral streams in KS as not waters of the US. It is hard to be certain based on such limited information, but I think I found what she was referring to, and it in no way undermines Clean Water Act protections for ephemeral streams; in fact, it does the opposite. It appears in the early 2000s, KS developed a protocol for doing UAAs for certain kinds of waters, ones that are not "classified" in the terminology of KS. Essentially, non-classified waters get narrative criteria to prevent against certain kinds of harm, but are not required to have a suite of numeric criteria to protect designated uses like swimming, etc. (See [http://water.epa.gov/scitech/swguidance/standards/uses/uaa/upload/ks\\_ny\\_crosby.pdf](http://water.epa.gov/scitech/swguidance/standards/uses/uaa/upload/ks_ny_crosby.pdf))

EPA, in highlighting this as an example of streamlined UAA actions, said specifically that the differential approach for criteria for classified and non-classified waters had no relationship to whether or not a water was a "water of the US".

Best,  
Jon

Sent from my iPad

Begin forwarded message:

From: "Dennis, Kia" <[Kia.Dennis@sba.gov](mailto:Kia.Dennis@sba.gov)<<mailto:Kia.Dennis@sba.gov>>>  
To: "Dennis, Kia" <[Kia.Dennis@sba.gov](mailto:Kia.Dennis@sba.gov)<<mailto:Kia.Dennis@sba.gov>>>  
Subject: Waters of the U.S. Roundtable Presentation

Attached you will find the presentation made by Virginia Albrecht as well as the document distributed by the Chamber of Commerce. Thanks to all who attended today's roundtable.

Kia Dennis | Assistant Chief Counsel | SBA Office of Advocacy | 409 3rd St. SW, Washington, DC 20416 | p 202/205-6936 | f 202/205-3762 | [kia.dennis@sba.gov](mailto:kia.dennis@sba.gov)<<mailto:kia.dennis@sba.gov>><<mailto:kia.dennis@sba.gov>> | website<<http://www.sba.gov/advocacy>> | listserv<<http://web.sba.gov/list/>> | blog<<http://weblog.sba.gov/blog-advoc/>> | Facebook<<http://www.facebook.com/AdvocacySBA>> | twitter<<http://twitter.com/advocacySBA>> |



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 072114 Clean Water Protection Rule Media Report - 31 items including conservation groups and Rocky Mountain Farmers Union step up to defend water rule...  
**Date:** Monday, July 21, 2014 1:51:01 PM  
**Attachments:** [image004.png](#)  
[image007.png](#)

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FYI

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Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)  
(202) 289-2361 (phone)  
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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Monday, July 21, 2014 10:13 AM  
**To:** Waage, Melissa  
**Subject:** 072114 Clean Water Protection Rule Media Report - 31 items including conservation groups and Rocky Mountain Farmers Union step up to defend water rule...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 21, 2014

## News Coverage

**Minn. Farmers Concerned about Proposed Wetland Rules**, Associated Press/St Paul, MN, 07/20/14.

Some farmers in Minnesota have expressed concern that new rules on how wetlands are protected will give federal regulators an expanded role on their fields. Minnesota Public Radio News reports that under Clean Water Act rules, farmers don't currently need permits for things like cleaning a drainage ditch if they are following proper practices.

**Conservation Groups Defend Water Rule**, DTN The Progressive Farmer, 07/18/14. Conservation groups are mounting a campaign in defense of EPA's proposed Waters of the U.S. rule, even as farm leaders and House Republicans try to stop the rule on the grounds it expands federal jurisdiction to bodies of water on farms. The Natural Resources Defense Council last week invited the Farm Bureau to participate in a debate on the rule, but the Farm Bureau declined. Replying to Quist, NRDC's Devine in a letter Tuesday accused the Farm Bureau of flooding legislators "with misleading material and then refusing opportunities to have a genuine exchange of ideas.

**Brownback pushes back on "federal overreach,"** High Plains/Midwest Ag Journal, 07/21/14. Under the

“waters of the U.S.,” newly proposed definitions would extend federal jurisdiction beyond that authorized in the Clean Water Act and create the opportunity for federal intervention in upland practices. “I believe it poses a real threat to Kansas and to the sovereignty to this state and to our people. Water has always been a state issue,” Brownback said. “There is no reason for the federal government to have further intrusion on the water rights of the state of Kansas.”

**Debate Heats Up on Proposed EPA Water-Quality Rule**, California Ag Today, 07/18/14. Meanwhile, the EPA called its proposals merely an effort to clarify regulatory jurisdiction, which was called for in two U.S. Supreme Court decisions that rules against the agency’s attempt to expand its jurisdiction over “waters of the United States,”

**AFBF isn’t buying EPA’s defense of ‘Waters of the U.S.’ proposal**, Agri-Pulse, 07/18/14. AFBF President Bob Stallman said his organization and other farm groups have met with EPA several times to discuss the rule, but with no indication that the agency would change its positions. “EPA is now engaged in an intensive public relations campaign, and we believe its statements are directly contrary to the reality of the proposed rule,” Stallman said. “Agency inspectors and courts will apply the rule, not EPA’s talking points.”

**Farm Groups Dissatisfied with WOTUS Explanations**, AgWire, 07/18/14. The American Farm Bureau Federation this week sent Congress a comprehensive document that responds to inaccurate and misleading comments made about the rule by EPA acting assistant administrator for water Nancy Stoner in a recent agency blog post.

**Ditch the myths, EPA Administrator say**, High Plains/Midwest Ag Journal, 07/21/14. The rule specifically lists 56 conservation practices that EPA believes are good for production and good for water quality. McCarthy said those 56 practices were listed in an attempt to clear the path for slam dunk conservation practices. New exemptions are self-implementing, which means no one needs to notify or get approval from EPA or the Army Corps of Engineers. McCarthy said there is no need to double-check with anyone at any time for these exemptions.

**Farm groups marshaling support to scrap EPA’s proposed water rule**, Delta Farm Press, 07/18/14. The proposed rule would give the two agencies the power to dictate land use decisions and farming practices on or near waters and land features covered by the rule, he says, and would make it more difficult to farm or to change a farming operation in order to remain competitive and profitable.

**Congressman Mullin Applauds Committee Passage of Bills to Rein In EPA Authority**, The Okie Blaze, 07/18/14. “Ensuring safe and clean water must always be a priority, but the EPA’s new proposed rule to expand the definition of navigable waters threatens agricultural and business operations in Oklahoma with no added protection to our water,” said Representative Mullin.

**Wilmington neighborhood affected by proposed clean water act update**, WECT-TV/Wilmington, NC, 07/18/14. In coastal North Carolina water is everywhere. Obvious locations such as the ocean or lakes are protected as U.S. waterways, but if some changes are made to the EPA Clean Water Act, your backyard could also fall under this classification.

**EPA Keeps Burning Bridges**, Farm Futures, 07/18/14. The agency already had many in agriculture in an uproar over its proposed lower Renewable Fuels Standards for biofuels last fall. National Farmers Union president Roger Johnson explained that EPA’s reputation was “very severely damaged in farm country” with the proposal to scale-back the Renewable Fuels Standard and this likely led to the “surliness with which the WOTUS proposal rule was received.”

## **Opinion**

**Farmers for Clear Water**, High Country News, (letter to the editor), 07/21/14. Bill Midcap: I read your coverage of the proposed new clean water ruling by the U.S. Environmental Protection Agency with interest (“Muddy waters of the U.S.,” HCN, 6/23/14; “Is the Clean Water Act under attack?” hcn.org, 6/24/14), and wish to add a few sentiments to the mix. For more than 100 years, the Rocky Mountain

Farmers Union has been a strong advocate for family farming and ranching in Colorado and the Intermountain West. We support the new "waters of the U.S." rule and take exception to much of the media's reporting of "agriculture's opposition" to the new clean water ruling. Bill Midcap is with the Rocky Mountain Farmers Union in Denver, CO.

**EPA rule another power grab**, Rapid City (SD) Journal, (op-ed), 07/19/14. However, with ambiguous new rules, such as the EPA's proposed definition of 'waters of the United States,' which seeks to dramatically expand the EPA's regulatory reach to backyards and farms across America, allowing the EPA to garnish wages of hardworking Americans is not only controversial, it is unconscionable. John Thune is U.S. Senator from South Dakota.

**Setting the Record Straight on Waters of the US**, (Chesapeake) Bay Journal, (op-ed), 07/20/14. Nancy Stoner: The rule keeps intact all Clean Water Act exemptions and exclusions for agriculture that farmers count on. But it does more for farmers by actually expanding those exemptions. We worked with USDA's Natural Resource Conservation Service and the Army Corps of Engineers to exempt 56 additional conservation practices. These practices are familiar to many farmers, who know their benefits to business, the land, and water resources. Nancy Stoner is the EPA's Acting Assistant Administrator for Water.

**Federal water rules hang South Carolina out to dry**, The (Charleston, SC) Post and Courier, (op-ed), 07/21/14. Samuel Rivers, Jr: Despite U.S. Supreme Court rulings striking down broad interpretations of their authority over isolated waters, the agencies keep trying to expand federal jurisdiction over ditches, ponds and puddles. The agencies' latest attempt is the most brazen, and according to EPA Administrator Gina McCarthy is "cleverly written," leading industry to believe the proposal is intended to be an end-run around Congress and the Supreme Court. Samuel Rivers Jr., a Republican, represents District 15 (parts of Berkeley and Charleston counties) in the S.C. House of Representatives.

**NJ Rivers must be protected**, Burlington (NJ) County Times, (letter to the editor), 07/21/14. Dominick Chiang: These loopholes must be closed to preserve these rivers. Numerous organizations are involved with closing loopholes in the Clean Water Act. These loopholes include waters that do not run every day of the year and waters that boats cannot travel through, though these still run into the rest of our waterways. Dominick Chiang is a Rutgers University student living in New Brunswick, NJ.

**We need the EPA rules**, Hampton Roads (VA) Pilot, (letter to the editor), 07/21/14. Chris Nelson: We here in Hampton Roads are forced to live in the pollution released by everyone in the watershed. They are all 'upstream' from us. Experience has shown time and again that polluters will not stop polluting unless the law requires them to stop and fines them when they don't. Chris Nelson lives in Norfolk.

**Letter: Clean water**, Pensacola News Journal, (letter to the editor), 07/20/14. Michael Benesch: We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. Michael Benesch lives in Gulf Breeze, FL.

## **Blogs/Social Media**

**Working to stop federal water grab**, Idaho State Journal Politics blog, 07/18/14. Ensuring clean, safe water is essential. However, overregulation is not the answer. This overreach sets a dangerous precedent. This attempt to exert authority over water outside the scope of the CWA is an assault on private property rights and state sovereignty. It also puts our economy and family farms in jeopardy. I will continue to work with my colleagues in Congress to utilize opportunities to prevent this excessive step. Submitted by U.S. Sen. Mike Crapo, R-Idaho Falls.



Americans have a right to [#cleanwater](#), and our elected officials need to respect

it. [j.mp/1nUebDv#ProtectCleanWater](https://j.mp/1nUebDv#ProtectCleanWater)



**Jeremy B. Mazur** [@jeremybmazur](https://twitter.com/jeremybmazur) · 1h

Congress takes another shot at EPA's "waters of the US" rule for US **Clean Water Act**. [#wotus thehill.com/policy/energy-...](https://thehill.com/policy/energy-...) via [@TheHill](https://twitter.com/TheHill)



**U.S. EPA Water** [@EPAwater](https://twitter.com/EPAwater) · 23h

Listen to this support for our clean water proposal: [youtu.be/cC9RWX--loQ](https://youtu.be/cC9RWX--loQ)



**Clean Water Action** [@cleanh2oaction](https://twitter.com/cleanh2oaction) · Jul 19

RT [@bwendelgass](https://twitter.com/bwendelgass): Austin Mayor Lee Leffingwell joins Clean Water Action in supporting restoring Clean Water Act. [#protectcleanwater](https://twitter.com/protectcleanwater)....



**Clean Water Action** [@cleanh2oaction](https://twitter.com/cleanh2oaction) · Jul 18

GET REAL! The real world needs clean water! News on events this week to [#ProtectCleanWater](https://twitter.com/ProtectCleanWater)! [@EPAWater](https://twitter.com/EPAWater) [ow.ly/zkbOP](https://ow.ly/zkbOP) [#DitchTheMyth](https://twitter.com/DitchTheMyth)



**U.S. EPA Water** [@EPAwater](https://twitter.com/EPAwater) · 17h

Streams that only flow seasonally or after rain have been protected by CWA since it was enacted in 1972. [#ditchthemyth](https://twitter.com/ditchthemyth)...



**U.S. EPA Water** [@EPAwater](https://twitter.com/EPAwater) · Jul 19

It's time to [#ditchthemyth](https://twitter.com/ditchthemyth) about our proposal to protect clean water. Read the facts at [go.usa.gov/XdkQ](https://go.usa.gov/XdkQ)



**Monica Trauzzi** @MonicaTrauzzi Jul 18

On today's The Cutting Edge...my conversation with [@AnnElizabeth18](#) on the latest **Clean Water Act** proposal news: [eenews.net/tv/2014/07/18](http://eenews.net/tv/2014/07/18)

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**REALTORS®** @REALTORS Jul 18

NAR Testifies Against Expanded **Clean Water Act** Regulations. Read more: [bit.ly/1ldACPh](http://bit.ly/1ldACPh)

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**EARTHWORKS** @Earthworks 4h

Muddying the Waters: House Committee Guts **Clean Water Act** Protections [bit.ly/1sBv3BX](http://bit.ly/1sBv3BX)

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**NE-MW Institute** @NEMWUpperMiss 1h

Association of State Wetland Managers: "**Clean Water Act** Jurisdiction, Polluters and Clean Water" [ow.ly/zoaS7](http://ow.ly/zoaS7)

-



**Environment Guru** @environmentguru 3h

Wilmington neighborhood affected proposal to **Clean Water Act**: In Coastal North Carolina, water is... [bit.ly/1n3EM12](http://bit.ly/1n3EM12) [#CleanWaterAct](#)

-

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 071814 Clean Water Protection Rule Media Report - 32 items including EPA admits confusion over water rule, AFBF keeps pushing against rule...  
**Date:** Friday, July 18, 2014 10:28:21 AM  
**Attachments:** [image005.png](#)  
[image006.png](#)  
[image008.png](#)

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FYI.

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)  
(202) 289-2361 (phone)  
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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Friday, July 18, 2014 10:11 AM  
**To:** Waage, Melissa  
**Subject:** 071814 Clean Water Protection Rule Media Report - 32 items including EPA admits confusion over water rule, AFBF keeps pushing against rule...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 18, 2014

### News Coverage

**EPA Admits 'Bonafide Confusion' on Water Rule**, Congressional Quarterly, (see below), 07/18/14. The Obama administration has quickly shifted from the offense to the defense on its proposals to define the reach of the Clean Water Act. The EPA is in full retreat, in fact, from an interpretive rule that spells out agricultural exemptions from the law's permitting requirements. EPA's deputy administrator, Bob Perciasepe, told the National Corn Growers Association on Thursday that the agency "may have messed up" in developing the interpretive rule, which has been under fire from environmentalists as well as farm interests.

**Greenwire's Snider talks confusion, messaging on EPA rule proposal**, E & E News, 07/18/14. s pressure mounts for U.S. EPA to address confusion and concerns relating to its Clean Water Act proposal, what are the key issues stakeholders have with the rule, and how could the politics of the proposal affect the midterm elections? On today's The Cutting Edge, *Greenwire* reporter Annie Snider discusses the latest moves by the agency, Congress and stakeholders as they all try to influence the future of the regulations. Today's The Cutting Edge will air on E&ETV at 12:30 p.m. EDT.



**Departing Perciasepe expresses affection for agency, defends water rule**, E & E News, (see below), 07/17/14. Perciasepe pointed to the recently proposed existing power plant rule as a possible model on how to better communicate the intentions of the Clean Water Act proposal, known as the "Waters of the U.S." rule. The National Corn Growers Association has filed comments on the interpretive rule, asking the agency to withdraw it. The group is still formulating its comments on the Waters of the U.S. proposal, said spokesman Ken Colombini. Although the NCGA has concerns, it has not taken as strong a stance as other agricultural groups like the American Farm Bureau Federation.

**EPA representatives propose Clean Water Act expansion**, KVUE-TV/Austin, TX. A plan to expand the Clean Water Act brought EPA representatives to Austin on Wednesday. According to the group Clean Water Action, the expansion would protect streams that 864,000 Travis County residents use for drinking water. The new rule would regulate pollutants put into small streams and wetlands, including seasonal streams that are dry some parts of the year.

**Bill Introduced to Stop WOTUS Overreach**, Southeast AGNet (Radio Broadcast), 07/17/14. A bill has been introduced in the U.S. House called the "Waters of the United States Regulatory Overreach Protect Act".

**AFBF Not Impressed by EPA Reaction to Ag Concerns**, KTIC Radio/West Point, NE, 07/17/14. American Farm Bureau Federation President Bob Stallman said in a statement Thursday that the industry's attempts to reach out to EPA officials have been unsuccessful on many of the issues of concern for agriculture in the proposed Clean Water Act rule. "AFBF and several state farm bureaus have met with the EPA repeatedly, and each time agency officials have declined to grapple with the serious, real world implications of the rule," Stallman said. "EPA is now engaged in an intensive public relations campaign, and we believe its statements are directly contrary to the reality of the proposed rule."

**Farm Bureau Decodes Water Rule Proposal, Asks EPA to Rescind**, Idaho Farm Bureau blog 07/17/14. The American Farm Bureau Federation last night released to Congress a comprehensive document that responds, point by point, to numerous inaccurate and misleading comments made about the Environmental Protection Agency's latest clean water rule.

**EPA Official Discusses WOTUS and RFS**, Jasper County (IN) News, 07/18/14. "We greatly appreciate the deputy administrator's willingness to participate in an open, well-considered conversation," said NCGA President Martin Barbre. "While we certainly have concerns over the proposed WOTUS and interpretive rules, we hope that by working with the EPA we will be able to shape a final rule that addresses them adequately."

**Proposed EPA wetlands rule sparks worries of federal intrusion**, Minnesota Public Radio, 07/17/14. "We really believe this is going to create new regulatory burdens," Minnesota Farm Bureau President Kevin Paap said. "We're willing to sit down and have a constructive conversation about what is exempt, what is not exempt. More clarity on what the intent of this rule means to those on the land." Paap said he's not opposed to regulation, but he wants the rules to be clear. He also prefers rules from the state, not the federal government.

**House committee halts water rule**, Morning Ag Clips, 07/17/14. The House Committee on Transportation and Infrastructure approved a bill today that would invalidate the Environmental Protection Agency's proposed rule re-defining "Waters of the United States" under the Clean Water Act.

**EPA's Clean Water Act Proposal Questioned By Both Democrats, Republicans**, Water Online, 07/17/14. After the EPA released a contentious plan to extend its jurisdiction over U.S. waters, it is not just the right that's balking at the plan. Democrats appear to be questioning the merit of the proposal, as well. During a June meeting of House lawmakers on the Transportation Committee, one such Democrat spoke up. The agency announced the rule change in April, and it will remain up for public comment until October. The powerful farm lobby is leading the fight against the proposal.

**WOTUS Means More Regulation**, AG Wired, 07/17/14. Our latest ZimmPoll asked the question, "How

*would the EPA water rule impact you?"* This is one of the hottest topics in the ag sector these days with a lot of uncertainty about what the future holds, especially when you see states starting to fine people for "wasteful use of water."

**EPA wants to regulate waters of the U.S.**, Farmington (MO) Press, (op-ed), 07/17/14. Congressman Jason Smith: This week the administrator of the Environmental Protection Agency spent two days in Missouri pushing the agency's latest attempt to regulate our rural way of life. In the last few years the EPA has attempted to regulate everything from how we meet our energy needs to prohibiting young people from working on the family farm. Just when I thought the EPA could not get any more extreme, now they are trying to place new intrusive and ineffective rules on every body of water in the United States. Congressman Jason Smith represents the 8<sup>th</sup> District of Missouri.

**Legislation Introduced to Invalidate CWA Proposed Rule**, Wisconsin Ag Connection, 07/17/14. According to the EPA, the 56 exempted NRCS practices, including prescribed grazing, were chosen because they have the potential to discharge if they are done in a water of the U.S. Effectively, the agencies have made cattle grazing a discharge activity, forcing cattle producers to obtain a NRCS-approved grazing plan or else be subjected to the 404 permitting scheme and the penalties under the Clean Water Act.

**EPA Spells Fear**, (Northwest) Ag Info, 07/18/14. The EPA bid to vastly expand its U.S. waters jurisdiction took another hit in the U.S. House when a key committee voted to put the proposed rule on hold. The House Transportation Committee said no to EPA's Waters of the U.S. rule. Some Democrats dissented over clean drinking water, sport fishing and other concerns - but Republicans and most democrats said no to what many in agriculture consider a massive EPA land grab. Top Committee Democrat Nick Joe Rahall of West Virginia.

**Wilmington experts on the EPA Clean Water Proposal**, WSFX/Wilmington, NC, 07/18/14. Environmentalists argue that these areas are critical to the ecosystem, even if they're completely dry for parts of the year, because the soil still drains into our drinking water and pollutes it. They say these areas have always been classified as wetlands, but now the wording in the Clean Water Act will reflect that. But local government officials and landowners fear the process of obtaining the necessary permits to build roads and other infrastructure in these areas would drain local funds and ultimately cost tax payers money.

## **Opinion**

- **Letter: Clean Water**, Idaho Statesman, (letter to the editor), 07/18/14. Only days after the recent victory for protecting river otters' streams and wetlands by closing loopholes in the Clean Water Act, polluters and their allies are waging a major attack on clean water by launching misleading ads in the media and promoting bills in Congress that undermine the recent progress, which could jeopardize streams and wetlands that river otters, fish and birds depend on. The loophole in the Clean Water Act must be closed to protect wetlands and streams that flow into the larger rivers and lakes that many of us will visit this summer.

**Dear EPA: Does my backyard belong to you?**, Iowa Farm Bureau/Farm Fresh blog, 07/17/14. Zach Bader: According to the Clean Water Act, Congress and the U.S. Supreme Court, EPA has authority to regulate "navigable" water – you know, water that floats a boat. But EPA has proposed a rule that would define the agency's jurisdiction much more broadly – to also include land that could potentially retain water for any period of time (e.g. puddles and ditches). Zach Bader is Iowa Farm Bureau's Online Community Manager.

## **Blogs/Social Media**

**Steve Southerland's Bill Pushing Back EPA Gains Steam**, (FL) Sunshine State News blog, 07/17/14. The U.S. House Transportation and Infrastructure Committee unanimously passed U.S. Steve



Southerland's R-Fla, "Waters of the United States Regulatory Overreach Protection Act" on Wednesday. Southerland's bill prevents the federal Environmental Protection Agency and Army Corps of Engineers from regulating most waters, leaving the task mostly to the states as has been the case for more than four decades under the Clean Water Act.

**Roll back the 20<sup>th</sup> Century: Clean Water Edition**, Daily Kos blog, 07/17/14. The EPA wants to clarify rules that restore Congress' original intent behind the Clean Water Act, but GOP opponents in Congress continue to muddy the waters with lies. You've likely heard about this debate, but you may not be familiar with the background.

**Daily Update: EPA Water regs**, Ag To Go blog, 07/17/14. House Transportation Committee bills would impact water regulations. Timothy Cama, The Hill, reported yesterday, "The House Transportation and Infrastructure Committee passed two bills Wednesday aimed at undercutting the way the Environmental Protection Agency (EPA) regulates water pollution.

**Time to send a clear message to EPA**, Paradigms and Demographics blog, 07/18/14. Jackie McClaskey: Kansas business owners, industry leaders and farm and ranch families will all be affected if the proposed rule addressing the Clean Water Act is pushed through. The latest media blitz in the Midwest to convince Kansans that the rule is benign and is in their best interest is a slap in the face. The rule, while promoted as reducing EPA oversight and clarifying the issue at hand, does nothing to improve the lives of Kansans. Jackie McClaskey is Kansas Secretary of Agriculture.

**Regulations: Farm Bill: and, the Ag Economy – Friday**, Farm Policy, 07/18/14. "One of the main concerns expressed by farmers and farm groups is that the 56 conservation practices listed in an interpretative rule released along with the larger CWA rule, essentially would narrow those practices exempt from the law by requiring farmers to follow Natural Resource Conservation Service specifications on those practices."

**Clean Water Act Changes Concern Farmers**

<https://www.youtube.com/watch?v=lmqoPtAhqgs>



**Dennis Schvejda** @DSchvejda 15h

House Committee Guts Clean [#Water](#) Act Protections | [@EarthWorks](#) [ow.ly/zhLNb](#) [#CWA](#)  
[#Congress](#) [pic.twitter.com/QLrMrQiRCy](#)



**Virginia Farm Bureau** @VaFarmBureau 14h

Find out why farmers are concerned over proposed changes to the **Clean Water Act**...

[fb.me/3248CENK4](#)



**SAWS** @MySAWS 17h

Austin Mayor Endorses Proposed Changes to **Clean Water Act** [ow.ly/zgMQh](#) via [@twcnewsaustin](#)

[#txwater](#) [#EPA](#)



**Great Lakes** [@healthylakes](#) 2h

We all need clean water [@RepSeanDuffy](#), pls sign on to support [#GreatLakes](#) health & [@EPA](#)'s [#ProtectCleanWater](#) rule [bit.ly/UdTjM2](#)

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Thx [@RepMarcyKaptur](#) for supporting [#GLRI](#) @ \$300M! Pls sign on to support [#GreatLakes](#) & [@EPA](#)'s [#ProtectCleanWater](#) rule [bit.ly/UdTjM2](#)



**GOVERNING** [@GOVERNING](#) 8h

New rules clarify 1972 **Clean Water Act** but some think they just add red tape & confusion  
[ow.ly/zeSVP](#) [pic.twitter.com/N7s4DComuQ](#)



**AGC Chapters** [@AGCChapters](#) 7h

Leah Pilconis of [@AGCEnvironment](#) testified Weds. on the Hill about [@EPA](#)'s **Clean Water Act** authority - her testimony: [transportation.house.gov/uploadedfiles/...](#)

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**Laura Martin** [@LauraOnWater](#) 5h

EPA's **Clean Water Act** Proposal Questioned By Both Democrats, Republicans. What do you think? [wateronline.com/doc/epa-s-clea...](#)

## EPA Admits 'Bonafide Confusion' on **Water** Rule

By Philip Brasher, CQ Roll Call

In today's Morning Take:

The Obama administration has quickly shifted from the offense to the defense on its proposals to define the reach of the Clean Water Act. The EPA is in full retreat, in fact, from an interpretive rule that spells out agricultural exemptions from the law's permitting requirements. EPA's deputy administrator, Bob Perciasepe, told the National Corn Growers Association on Thursday that the agency "may have messed up" in developing the interpretive rule, which has been under fire from environmentalists as well as farm interests.

He also said that a broader proposed rule that defines what bodies of water fall under the regulation of the pollution law ([PL 95-217](#)) "has created bonafide, bonafide confusion."

Those concessions are a far cry from the aggressive way he has rebutted attacks on the rule on Capitol Hill. He also conceded that some areas that aren't considered covered by the Clean Water Act under existing regulations, which rely on case-by-case determinations, could be covered under the proposed rule, which attempts to follow requirements of two Supreme Court rulings. Under existing regulations, interpretations as to which tributaries are regulated and which ones aren't are "different all over the country," Perciasepe said.

As for the interpretive rule, he said that the agency needs to clarify the agricultural exemptions. "We have to find a way to get it into the final rule ... in a way that it doesn't lead to any of these kinds of misinterpretations or confusion that we may have." Perciasepe, who is leaving the agency next month, didn't say what the agency would do about the interpretive rule. However, his comment about getting the clarity in the "final rule" could suggest that the issue would be folded into the proposed [water](#) rule.

Still unclear is how EPA will deal with the farm lobby's main complaint — that the exemptions from Section 404 permitting wouldn't apply to practices that don't meet standards set by the Department of Agriculture's Natural Resources Conservation Service.

**Formerly Supportive Group Questions EPA, Too** . Unlike the larger American Farm Bureau Federation, the National Farmers Union [was initially supportive of the proposed rule](#), calling it "ag-friendly." But NFU is now demanding that the agency clarify what it's supposed to cover. In a [letter](#) to EPA Administrator Gina McCarthy, NFU said the proposed rule "has created less clarity, not more as was intended," and the group warned that failing to address the "confusion and anxiety" around the issue "will lead to more resentment in rural America."

The unstated message: EPA is going to become an even bigger drag on Democrats in rural areas than it already is, if it doesn't do something about this issue.

The letter says McCarthy failed to answer the questions of NFU board members adequately during a conference call earlier this week. The group's concerns include how much of the wetlands in the Dakotas, a stronghold of the organization, would be regulated under the law.

The Farm Bureau, meanwhile, has released a [rebuttal](#) to an earlier [EPA blog post](#) defending the rule.

**[Perciasepe Going to Climate Change Center](#)**. Next month, Perciasepe will take over as president of the Center for Climate and Energy Solutions, the former Pew Center on Global Climate Change. He did a previous stint at EPA during the Clinton administration and also has served as Maryland's secretary of the environment and chief operating officer at the National Audubon Society.

## **Departing Perciasepe expresses affection for agency, defends water rule**

Tiffany Stecker, E&E reporter

Published: Thursday, July 17, 2014

After a total of 13 years at the agency, it's time to influence policy from outside the U.S. EPA fortress, outgoing Deputy Administrator Bob Perciasepe said today.

EPA Administrator Gina McCarthy announced this morning that Perciasepe will leave the agency next month to become president of the Center for Climate and Energy Solutions (C2ES) ([Greenwire](#), July 17).

"I love EPA," Perciasepe told *E&ENews PM* after speaking at a National Corn Growers Association meeting. "I think EPA is doing great things, and I'm so confident of the work that's going on there. I don't feel that it's a bad time to go on to the outside on these issues."

Perciasepe said he will work to get businesses and small communities collaborating with states to build policies on climate change and energy.

"I think that's going to be needed," he said. EPA released a highly anticipated proposal last month to limit greenhouse gas emissions from existing power plants, a regulation that depends on the cooperation of states.

Perciasepe came to the meeting to discuss one of EPA's most contentious recent moves, a proposal to expand the number of rivers and streams that receive automatic protection under the Clean Water Act. The proposed rule has been fiercely criticized by some powerful agricultural groups that argue the proposal would undermine long-standing exemptions for the farming activities.

In his remarks, Perciasepe sought to smooth over a long-difficult relationship between the agriculture sector and EPA.

"Our relationship is vital to both of us," he said. "We need you, and you need us."

Perciasepe and McCarthy have spent significant resources over the past few months to dispel what they consider "myths" about the rule. Perciasepe spoke to the American Soybean Association last week as McCarthy visited farmers and agriculture groups in Missouri.

One misconception is that EPA will seize control of farmers' land to regulate water quality, Perciasepe said.

"If you didn't need a permit before, you won't need one now; I can't stress that enough," he said.

Perciasepe pointed to the recently proposed existing power plant rule as a possible model on how to better communicate the intentions of the Clean Water Act proposal, known as the "Waters of the U.S." rule.

"We tried to write that preamble [of the rule] in plain English, as opposed to the legalese that gets, and is necessary sometimes, in some of the rulemaking," Perciasepe said.

The National Corn Growers Association has filed comments on the interpretive rule, asking the agency to withdraw it. The group is still formulating its comments on the Waters of the U.S. proposal, said spokesman Ken Colombini. Although the NCGA has concerns, it has not taken as strong a stance as other agricultural groups like the American Farm Bureau Federation.

Perciasepe also discussed the federal renewable fuel standard, an issue that corn growers that sell their bushels to ethanol plants have strongly supported. EPA is expected to finalize this fall the number of biofuel gallons that oil companies are required to blend in the fuel supply.

The agency was sharply criticized last November when it released a proposal to reduce the corn ethanol gallons by nearly 10 percent from the agency's targets in 2010. Perciasepe reminded growers that biofuels remain an important part of the president's Climate Action Plan.

"I've had plenty of conversations with farmers and growers," Perciasepe said. "Those have been some of the most difficult conversations I've had at EPA."

Twitter: [@TiffanyStecker](#) | Email: [tstecker@eenews.net](mailto:tstecker@eenews.net)

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 071714 Clean Water Protection Rule Media Report - 22 items including more GOP efforts to stop EPA, former MN Rep. Jim Oberstar's CWA story on You Tube...  
**Date:** Thursday, July 17, 2014 10:31:16 AM  
**Attachments:** [image004.png](#)  
[image005.png](#)

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Thursday, July 17, 2014 10:17 AM  
**To:** Waage, Melissa  
**Subject:** 071714 Clean Water Protection Rule Media Report - 22 items including more GOP efforts to stop EPA, former MN Rep. Jim Oberstar's CWA story on You Tube...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 17, 2014

## News Coverage

**K Street eyes spending bills to stop Obama**, The Hill, 07/17/14. Republicans are also fighting an EPA rule they say unduly expands the EPA's authority over streams and other smaller bodies of water. Farmers and ranchers have said the rule could be devastating to their businesses. "This is a way to limit the EPA's definition of what constitute the Waters of the United States," said Don Parrish, director of regulations at the American Farm Bureau Federation, who said he has lobbied both Republicans and Democrats on the issue.

**Republicans step up attack on water rules**, Congressional Quarterly, (see below), 07/17/14. Farm groups don't like the rule because it would require 56 agricultural practices to be done according to Department of Agriculture standards in order to be exempt from Section 404 permitting requirements. Environmental groups say the interpretive rule exempts too many farm practices. Provisions in the fiscal 2015 Interior-Environment and Energy-Water spending bills would block the proposed rule for one year, but the Southerland bill would go further and require that EPA consult with state and local officials on the issue and report to Congress on recommendations for a consensus proposal.

**Panel votes to curb EPA's veto power**, The Hill, 07/16/14. The House Transportation and Infrastructure Committee passed the bills, which would restrict the agency's preemptive and retroactive vetoes of permits to dump dredge or fill material in waterways and wetlands, give states more control over water pollution permits and block the EPA's efforts to redefine its jurisdiction over streams and lakes.

**Lawmakers target EPA's water regs**, The Hill, 07/16/14. The House Transportation and Infrastructure Committee passed two bills Wednesday aimed at undercutting the way the Environmental Protection Agency (EPA) regulates water pollution. One of the bills would give states more authority over water pollution permits and state permitting rules, while the other would block the agency's joint proposal with the Army Corps of Engineers to redefine which waters it has jurisdiction over per the Clean Water Act.

**In fertile Mo. floodplain, farmers scratch their heads over EPA proposal**, E&E News, (see below), 07/16/14. Some agricultural groups, led by the American Farm Bureau Federation, have staked out staunch opposition to the rule or anything like it. A handful of others have welcomed the proposal in hopes that it can clear up some of the existing confusion for their members. But many groups are still quietly sorting through it, trying to decide how worried they need to be. The political fight underway in Washington, D.C., over the fate of the water proposal could well hinge on the administration's ability to reassure Waters and other farmers like him -- farmers who are pressed for time and would rather be working in the field than calling their lawmakers about a policy proposal if it doesn't change much for them.

**House Bill Joins Senate Effort to Derail EPA's Waters Rule**, Farm Futures, 07/17/14. The National Cattlemen's Beef Association on Wednesday said a bill from Rep. Steve Southerland, R-Fla., could help stop the U.S. EPA-proposed Waters of the U.S. rule from moving any further. Southerland said the proposed rule -- which aims to define what waters fall under the Clean Water Act's jurisdiction -- would expand the U.S. EPA and the Army Corps of Engineers' "regulatory authority to almost any body of water in America, including ditches, pipes, watersheds, and farmland ponds."

**Bill introduced in House to Stop EPA's Regulatory Overreach**, KNEB Radio/Scottsbluff, NE, 07/17/14. Florida Representative Steve Southerland has proposed the Waters of the United States Regulatory Overreach Protect Act - which would halt any action of the Environmental Protection Agency and the Army Corps of Engineers regarding the proposed definition of Waters of the United States.

**House Committee Unanimously Approves Southerland Bill to Rein In EPA Overreach**, Foster Folly News/Chipley, FL, 07/17/14. U.S. Rep. Steve Southerland, II applauded the House Transportation and Infrastructure Committee's unanimous approval today of legislation he introduced to prohibit the Environmental Protection Agency and Army Corps of Engineers from extending federal regulatory powers to almost any body of water in America. The Waters of the United States Regulatory Overreach Protection Act (H.R. 5078) preserves the successful federal-state partnership under the Clean Water Act that has regulated U.S. waters for over 40 years.

**Debate Heats Up on Proposed EPA Water-Quality Rule**, (Mariposa, CA) Valley Online News, 07/16/14. Agricultural leaders want the EPA to scrap the proposed rule changes, terming them a poorly orchestrated attempt to expand agency jurisdiction. The proposed rule was published in April, and remains open to public comment until October. County Farm Bureaus in California are joining the national push to have the proposed rule changes withdrawn, reaching out to members of the state's congressional delegation and urging the proposal be stopped.

**Federal spending bill includes important provisions for producers**, Wisconsin State Farmer, 07/16/14. "Cattle producers have grave concerns over EPA and Corps of Engineers' proposed expansion of the Clean Water Act," McDonald said. "We applaud the members of the committee for sending the Interior appropriations bill forward with language that would prevent the agencies from finalizing this regulation, which we see as the largest federal land grab in history."

**To ditch or not to ditch**, Reno (NV) News and Review, 07/17/14. The Environmental Protection Agency has proposed changes to the Clean Water Act that are highly controversial throughout the country. The proposed rule is called Waters of the U.S. (WOTUS), and the EPA states on its website that it's meant to "clarify protection under the Clean Water Act for streams and wetlands that form the foundation of the



nation's water resources." Many farmers and ranchers believe this rule would overstep and extend the EPA's power unfairly and needlessly.

**Officials OK Bills Related to Regulation of U.S. Waters**, Dredging Today, 07/17/14. The Committee on Transportation and Infrastructure yesterday approved several bills related to the regulation of the Nation's waters – legislation to provide greater regulatory certainty, protect and maintain the balanced federal-state regulatory partnership, and prevent overreach by the federal government.

## **Opinion**

## **Blogs/Social Media**

**Could water be the next regulatory hot spot between Texas and the EPA?**, Austin Statesman/Salsa Verde blog, 07/16/14. Ellen Gilinsky, a senior advisor for water at the U.S. Environmental Protection Agency, was in Austin Wednesday as part of a national charm offensive as the EPA seeks public support as it broadens the definition of "Waters of the United States" to include seasonal and rain-dependent waterways -- often known in these parts as intermittent streams. According to Gilinsky, 11.5 million Texans get drinking water from sources that depend, in part, on such streams, and the EPA proposal would stiffen regulations for discharging pollution into such waterways.

**House Republicans Wage War on Clean Water**, NRDC Switchboard blog, 07/16/14. Yet some members of Congress seem to have lost sight of the fact that clean water matters. And House Republicans this week are waging a war on water, attempting to push through several bills in committee that attack clean water protections and open the door for polluters—including mountaintop removal mining operations—to dump waste into rivers, streams and other water bodies all over the country. One dirty water bill, H.R. 5078, sponsored by Representative Southerland, would kill a commonsense proposal from the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers to protect streams and wetlands, many of which feed into drinking water supplies.

**Moyer to Congress: don't Trash the Clean Water Act**, Trout Unlimited blog, 06/16/14. This critical rule clarifies the scope of the Clean Water Act by clearly defining which waterways are covered by the Act. Legitimate concerns about the rule can and should be addresses during the rulemaking process, not through legislative attacks on the rule such as HR 5078.

**More EPA spin on "waters of the United States,"** Pacific Legal Foundation/Liberty blog, 07/16/14. The Administration unabashedly claims the new rule is compelled by Supreme Court decisions interpreting the Act and that the rule will not expand the government's jurisdiction. But this is utter nonsense, which only the uninformed believe. So we give kudos to the Senate Environment and Public Works Committee for calling the EPA on its blatant misrepresentations.

**The Clean Water Act – Better at 40 – Rep James Oberstar**

<https://www.youtube.com/watch?v=nVaokZUAr2A>



**M. Elizabeth Gomez** @mariana\_vock 18h

Local govs divided over proposed EPA Clean Water Rules - are they dodging responsibility for clean H2O? [governing.com/topics/transpo](http://governing.com/topics/transpo) ... @danvock





**C-SPAN Now** @CSPANnow 2m

1-\*House Session | 2-Governors on Health Care Services | 3-Clean Water Act Regulations [c-span.org/schedule/?utim...](http://c-span.org/schedule/?utim...)



**AGC Chapters** @AGCChapters 16m

Leah Pilconis of @AGCEnvironment testified Weds. on the Hill about @EPA's Clean Water Act authority - her testimony: [transportation.house.gov/uploadedfiles/...](http://transportation.house.gov/uploadedfiles/...)



**GOVERNING** @GOVERNING 24m

New rules clarify 1972 Clean Water Act but some think they just add red tape & confusion [ow.ly/zeSVP](http://ow.ly/zeSVP) [pic.twitter.com/N7s4DComuO](http://pic.twitter.com/N7s4DComuO)



**Ashley Goudeau** @AshleyG KVUE 21h

Happening Now: @TheLeeTeam speaking about #EPA proposal on adding waterways to the Clean Water Act [pic.twitter.com/op4BaDHXPY](http://pic.twitter.com/op4BaDHXPY)

– 6:00 a.m.

## Republicans Step Up Attack on Water Rules

By Philip Brasher, CQ Roll Call

House Republicans are doing everything they can to make Democrats squirm over the Clean Water Act, and so far it appears to be working. The latest move: The House Transportation and Infrastructure Committee advanced a bill Wednesday that would short-circuit the Obama administration's moves to spell out the scope of the Clean Water Act ( [PL 95-217](#) ). The measure, approved by voice vote, would block a proposed rule from being implemented and repeal a separate interpretive rule defining agricultural exemptions.

Democrats on the committee did not seek roll call votes on either the bill, sponsored by [Steve Southerland II](#) , R-Fla., or on two Democratic amendments that sought to narrow its scope. Democrats conceded there were concerns that needed to be addressed by the administration.

"I will admit that their current proposal is extraordinarily inelegant," said [Peter A. DeFazio](#) , D-Ore. "They keep telling us what it doesn't do. If you write a rule and have to keep telling people what it doesn't do, then maybe your rule needs a lot of work."

However, DeFazio said the administration needed to be given time to address objections to the proposal and noted that the comment period on the proposed rule has been extended to October.

**Walz: Kill Interpretive Rule.** After the markup, committee member [Tim Walz](#), D-Minn., said the administration ought to pull the interpretive rule, which has drawn fire from farm groups as well as environmentalists. Taking that step “would alleviate some of this immediate confusion,” Walz said. “It would show that they [farmers] are being listened to.”

Farm groups don't like the rule because it would require 56 agricultural practices to be done according to Department of Agriculture standards in order to be exempt from Section 404 permitting requirements. Environmental groups say the interpretive rule exempts too many farm practices.

Provisions in the fiscal 2015 Interior-Environment and Energy-Water spending bills would block the proposed rule for one year, but the Southerland bill would go further and require that EPA consult with state and local officials on the issue and report to Congress on recommendations for a consensus proposal.

EPA's deputy administrator, Bob Perciasepe, is talking to members of the National Corn Growers Association today about the issue.

Georgina Gustin contributed to this report.

## **WATER POLICY:**

### **In fertile Mo. floodplain, farmers scratch their heads over EPA proposal**

Annie Snider, E&E reporter

Published: Wednesday, July 16, 2014

ORRICK, Mo. -- Tom Waters is a practical man.

A seventh-generation farmer with 5,000 acres, Waters carries a fat ring of gate keys in the pocket of his blue jeans, calculates acreage on his iPhone and faces the prospect of a new U.S. EPA regulation not with ideology, but with a simple question: What will it mean for him?

Waters is the kind of farmer EPA Administrator Gina McCarthy aimed to reach on her swing through Missouri farm country last week as she tried to clear up controversy and confusion over a major proposed water regulation.

The proposal is aimed at sweeping away years of uncertainty about which streams and wetlands are subject to federal regulation under the Clean Water Act. It stands to affect a number of industries, but implications for agriculture -- which has been largely exempt from key portions of the 1972 pollution law -- have taken the spotlight.

McCarthy says that the proposal would have little impact on agriculture and maintains that long-standing exemptions for farmers would remain intact. She says the goal is to protect important rivers and streams in a way that doesn't interrupt farmers' ability to do their work.

But she acknowledges that the Obama administration did not help itself in spreading this message.

An interpretive rule for agriculture that was released in tandem with the proposed rule has been panned by stakeholders from all sides as -- at best -- only adding to the confusion ([Greenwire](#), July 9).

"I have never proposed anything that I thought would be so well-received as this that has fallen totally flat on its face," McCarthy told a group of some 140 agribusiness representatives in Kansas City last week ([E&ENews PM](#), July 10).

One major challenge facing the administration is that few farmers are well-enough versed in existing rules to understand what the proposal would and wouldn't change. It's a common belief that the Clean Water Act applies only to "navigable waters," even though there is little legal doubt that streams and creeks that flow

year-round into those rivers and the wetlands near them fall under federal jurisdiction.

"In every farmer's mind, it's been about big rivers," said Ken McCauley, a member of the Kansas Corn Commission and former president of the National Corn Growers Association.

Some agricultural groups, led by the American Farm Bureau Federation, have staked out staunch opposition to the rule or anything like it. A handful of others have welcomed the proposal in hopes that it can clear up some of the existing confusion for their members. But many groups are still quietly sorting through it, trying to decide how worried they need to be.

The political fight underway in Washington, D.C., over the fate of the water proposal could well hinge on the administration's ability to reassure Waters and other farmers like him -- farmers who are pressed for time and would rather be working in the field than calling their lawmakers about a policy proposal if it doesn't change much for them.

### **'Incredibly confusing'**

Waters knows more than the average farmer about how water moves across the landscape.

He's been president of his local Missouri Valley Drainage and Levee District for nearly two decades, and president of the state association of such districts for almost as long. Farmers agree to tax themselves -- sometimes at rates that well exceed property taxes -- so that these districts can build and maintain ditches, pumps and levees.

Most Americans don't think much about ditches, but farmers in low-lying areas must be keenly aware of them.

If a field is submerged for long, crops can drown. The first thing a farmer does after planting, Waters said, is clean out the adjacent ditch.

Driving through the bright green of early July corn and soybean fields last week, he pointed out ditches reaching as far as the eye could see across the Missouri River's rich floodplain.

"Every field in the bottoms has some sort of drainage ditch," he said. "It's like a tree. The smaller ditches are the little branches that grow from bigger branches that come off the trunk."

The trunk of that tree is a roughly 45-foot-wide ditch that drains through two 8-foot-diameter pipes into the Missouri River.

Waters isn't sure, but he speculates that a creek probably flowed through this area before the ditch was built. Today, the man-made ditch almost always has some water in it, draining nearly 23,000 acres of land that reaches up out of the floodplain and into the distant hills, Waters said.

He has taken any number of Army Corps of Engineers officials to this site over the years to show them the floodgates. But it never occurred to him that this ditch might be a jurisdictional "water of the U.S."

Waters had heard of EPA and the Army Corps' water proposal, but it wasn't until McCarthy's visit to nearby Kansas City made news with local farmers and a reporter's request for a tour that he considered what it might mean for him.

After researching the issue -- plowing through the American Farm Bureau Federation's [website](#) on the rule, searching news articles and reading Obama administration officials' congressional testimony on the topic -- he's still not sure.

The rule excludes two types of ditches: those that are carved "wholly in uplands, drain only uplands and have less than perennial flow," and ditches that do not contribute flow to jurisdictional water.

But translating that into the specifics of an individual ditch or farm is no small feat.

"It's incredibly confusing terminology," Waters said. "I would say, incredibly scary terminology to us. How do you know? How do you find out?"

It's not much easier for experts.

Steve Taylor spent years at the Missouri Department of Natural Resources, where he focused on programs aimed at reducing polluted runoff from nonpoint sources, specifically agriculture. Now he's executive director of the Missouri Agribusiness Association.

Unlike Waters, he attended several of McCarthy's events in Missouri last week and said he was pleased with the conversations he had with Ken Kopocis, senior adviser at EPA and Obama's long-stalled nominee to head up the Office of Water.

But, Taylor said, after all that, he's still not sure whether the ditches Waters oversees would be jurisdictional. These ditches have water sitting in them, but does that equate to flow, he wondered. Is the word "upland" being used to mean land that's not a federally jurisdictional wetland, or does it mean the hills outside of the floodplain?

"The conversations went well," Taylor said. "The problem is, this issue is so complicated, so detailed. ... My comfort level isn't resolved yet, and it can't be without a lot more technical conversations."

EPA spokeswoman Liz Purchia said the agency wasn't in a position to make a "snap judgment" about whether Waters' ditches would be jurisdictional based on pictures and a description sent to agency headquarters.

"That's why we have regional offices who can assist farmers with questions they may have about whether a ditch or body of water on their land is covered under the Clean Water Act today or under the proposed rule," she said by email.

During the visit to Missouri, Kopocis said that the agency had aimed to write a rule that a farmer could read, on its face, and then look at his or her own property to determine whether it applied. He and McCarthy acknowledged, though, that there is still confusion and invited agricultural groups to make suggestions for clearing it up.

## **Pesticide worries**

Moreover, McCarthy was careful to point out on her visit that there are two issues at hand for farmers and ranchers: Is a ditch, stream or pond a jurisdictional water? And does the activity they want to undertake require a permit?

Regardless of whether a pond or a creek is jurisdictional, she said, the vast majority of agricultural activities would fall under the Clean Water Act's dredging-and-filling exemptions for "normal farming practices."

"One of the challenging things about explaining this rule is just because it's within the jurisdiction of the Clean Water Act doesn't mean that it can't continue to be a vital part of how agriculture does its business," McCarthy said during a visit to a farm in Rocheport, Mo.

That farm has a pond that she said is currently jurisdictional and would continue to be under the proposed rule.

"Unless you're really doing something that's disturbing this in a significant way, or adding pollutants downstream, you'd never need to connect with EPA about it," she said. "It's not as if we're requiring a permit

with a new rule that we didn't have before."

The activity that Waters is most concerned about, though, is not one that falls under those exemptions: spraying pesticides.

Following a 2011 court decision, EPA began requiring a permit for the application of pesticides "into or near" federally jurisdictional waters.

Waters' question: What does "near" mean?

Most states have taken on the job of issuing pesticide-application permits themselves, but EPA also has a general permit for the activity.

In that permit, the agency has not defined the term "near" but says it interprets it as applying in cases where application will unavoidably involve a discharge into a jurisdictional water. On its [website](#), the agency gives the example of treating weeds on the bank of a ditch.

Gary Vandiver is general manager of the Orrick Farm Service, which supplies pesticides, fertilizers and other inputs to farmers. He also serves on the Missouri Soil and Water Districts Commission.

Vandiver said that farmers in the soggy Missouri boot heel have been going through the pesticide permit process, but that farmers in his region haven't thought they needed to because they haven't believed they were near jurisdictional waters.

The pesticide rule, which has caused much consternation among farmers, doesn't sit well with Vandiver.

"The ag retail industry -- we've done away with so many harmful herbicides because of water quality," he said. "Everything we use is considered a lot safer. We used to use 2 quarts an acre; now we use 2 ounces."

For Waters, it's an issue of timing. The window for catching the pests is narrow, and his farm is just a two-man operation.

"I'm worried about having to go through the permit process and losing time," Waters said.

"We don't want to spray the ditch -- that stuff is real expensive," he said with a laugh. "It's one of our biggest expenses. We try to keep it on the crop. Anything else is a waste."

## **Pollution diets?**

Taylor, with the Missouri Agribusiness Association, has been through legal battles and has an eye on something bigger: water quality standards.

While farmers don't need a Clean Water Act permit for excess fertilizer or other nutrients that wash off their fields, since they are "nonpoint sources," states have the power to ratchet up pressure on agricultural producers to reduce nutrients through the Total Maximum Daily Load (TMDL) process. That process has states -- under the watchful eye of EPA -- create pollution diets for overburdened waterways that often plot out reductions both for agriculture as well as regulated point sources like factories and wastewater treatment plants.

The reason the jurisdictional rule matters: Most states key off "waters of the U.S." in deciding which of their streams, creeks and wetlands get water quality standards.

In Missouri, this is a touchy topic.

The state just went through a years-long battle over which of the state's waters are classified, meaning that the state sets a level for how they are to be used and thus what would constitute polluted.

The question of federal jurisdiction didn't play into that battle -- all of the waters at stake were already under federal jurisdiction -- but it did make farmers and environmentalists jumpy.

For federally protected waters, EPA does not have the authority to regulate nonpoint pollution sources, but the agency is taking a novel approach in the ailing Chesapeake Bay to press states, which do have the authority, into following through with the diets.

For agriculture, those diets include stepping up conservation practices such as planting cover crops and installing forested buffers along streams to help capture and filter excess nutrients running off farm fields before they make their way into tributaries.

To the American Farm Bureau Federation, the approach in the Chesapeake Bay equates to control over land use. The group immediately brought a legal challenge to it and is currently appealing a federal court ruling that upheld it ([Greenwire](#), Oct. 8, 2013).

Looking at the fertile bottomland in his Missouri River Valley, Waters quickly calculated how much acreage it would take out of production if a typical 60-foot buffer were required along the 10-mile-long main artery of the ditch system within his district's boundaries.

His guess: more than 145 acres. In this area, an acre sells for \$10,000 and grosses its owner about somewhere between \$600 and \$850 a year.

"This would be an incredible regulatory burden on all of us on land that we consider private," Vandiver said, "as is this ditch. And we've been taxed on it."

But what happens on private property can have an effect on downstream waters.

Environmentalists note that unregulated agricultural and urban stormwater runoff now makes up the lion's share of pollution in the country's waters, and it's not getting better. Every summer, the excess nutrients washing off of Midwestern farms in the Mississippi River watershed flow down the mighty river and spawn a massive, oxygen-starved dead zone in the Gulf of Mexico.

"The nonpoint sources are the biggest problem in the country's waters right now, and one of the reasons why it's a problem is they're not regulated," said Lorin Crandall, director of the clean water program at the Missouri Coalition for the Environment. "These things become so problematic because you're telling someone what to do with their land, but the land and the water are inextricably connected."

Crandall, whose group brought the lawsuit seeking to require Missouri to classify more of its waters, supports the federal water proposal. But, he said, he doubts EPA would go after farmers, even if they were found doing something without having the necessary permit.

"I just don't think that's going to happen," he said. "That would be a great way for EPA to watch crazy get even crazier, and I think they have to be selective in their enforcement."

For his part, Waters is simply interested in finding out how he can learn what he needs to do.

Asked whether he would want to invite a federal regulator out to his farm to issue a formal decision on his ditches, he replied, "I don't know. Is it better to know or not to know?"

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 071614 Clean Water Protection Rule Media Report - 25 items including GOP wins Approps Committee bill with anti-EPA reg riders, NRDC and Farm Bureau battle in E&E...  
**Date:** Wednesday, July 16, 2014 10:17:39 AM  
**Attachments:** [image002.png](#)  
[image004.png](#)  
[image005.png](#)  
[image008.png](#)

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FYI.

For more info (and to read the actual correspondence between NRDC and the Farm Bureau) about our debate challenge, please see <http://www.nrdc.org/media/2014/140715.asp>.

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**Sent:** Wednesday, July 16, 2014 10:13 AM  
**To:** Waage, Melissa  
**Subject:** 071614 Clean Water Protection Rule Media Report - 25 items including GOP wins Approps Committee bill with anti-EPA reg riders, NRDC and Farm Bureau battle in E&E...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 16, 2014

### News Coverage

**House Panel Backs EPA's FT15 Funding Bill, Setting Up Fight Over Riders**, Inside EPA, (see below), 07/15/14. The House Appropriations Committee July 15 approved an interior and environment appropriations bill on a 29-19 party-line vote after Republicans defeated a series of Democratic amendments that would have stripped language preventing EPA from proceeding with a dozen policy measures, including its utility greenhouse gas (GHG) rules and Clean Water Act (CWA) jurisdiction rule. But the White House has threatened to veto bills that block the climate and water rules, and committee Chair Hal Rogers (R-KY) said after the markup that he was "not sure" if the bill would reach the House floor before lawmakers adjourn for the August recess.

**House Republicans Take Aim at EPA Climate Rules**, The Hill, 07/15/16. House appropriators on



Tuesday approved a \$30 billion spending bill designed to block a host of looming Environmental Protection Agency regulations viewed by the GOP as exceeding the agency's authority. It targets the EPA's "Waters of the United States" rule designed to clarify the agency's jurisdiction over streams and other smaller bodies of water. Republicans have derided the measure as a "land grab" that could result in the agency expanding its jurisdiction to ponds, trenches or even dry riverbeds.

**House Appropriators Battle Over Wildfire Funding**, Congressional Quarterly, (see below), 07/15/14. The House Appropriations Committee advanced a \$30.2 billion bill Tuesday to fund the Interior Department and the EPA for fiscal 2015 after rejecting attempts to designate some wildfire funding as emergency spending. The committee also turned back attempts to remove from the bill policy provisions that would block the EPA from implementing several regulations, including carbon pollution limits on new and existing power plants.

**House Committee Moves Rider-Laden Spending Bill**, National Journal, (see below), 07/15/14. The House Appropriations Committee approved its interior and environment spending bill, which comes with plenty of riders to block recent EPA actions. The \$30.2 billion bill passed by a 29-19 vote over Democratic objections that the committee should strip out provisions blocking EPA's rules limiting emissions from power plants, barring its clarification of Clean Water Act jurisdiction, and delaying an Endangered Species Act listing of the sage grouse. There's no schedule for the bill to reach the floor yet.

**NRDC, Farm Bureau spar over invitation to debate EPA rule proposal**, E&E News, (see below), 07/15/16. Natural Resources Defense Council water attorney Jon Devine wrote Farm Bureau Federation President Bob Stallman last week challenging his group to a debate on the proposed rule, which would increase the number of streams and wetlands that receive automatic protection under the Clean Water Act as compared with a George W. Bush administration policy that followed two muddled Supreme Court decisions.

**Grassley skeptical of EPA Waters of the U.S. rule**, Des Moines Register, 07/15/14. Iowa Sen. Chuck Grassley is not impressed with efforts by the Environmental Protection Agency to smooth over concerns from the agricultural community outlining which bodies of water the agency would oversee under the Clean Water Act. Grassley said he backed legislation introduced in Congress that would force the EPA to abandon the Waters of the U.S. rule, or prevent the agency from spending money to carry out the measure.

**Fenner town board clarifies: It opposes Clean Water Act resolution verbiage, not clean water**, (Central NY) Eagle News, 07/15/14. The Fenner Town Board members stated that the new rule would create unnecessary and burdensome interference by the federal government. It was reported last week that EPA officials have recently agreed with the criticisms and said the proposed rule needs clarification.

**Pressure builds against EPA water proposal**, Free Republic, 07/15/15. Proposed changes to the federal Clean Water Act have roiled farmers across the nation and created an uproar among many other water users—including cities and counties with parks and recreation areas, golf courses and local water agencies. If adopted, the proposed rule changes would expand the definition of "waters of the United States" to potentially allow federal agencies to regulate virtually every area of ground in the nation that gets wet or has flow during rainfall.

**Waters of the U.S. Questions? EPA Schedules Webinar**, Farm Futures, 07/16/14. Nancy Stoner, acting assistant administrator for water with the U.S. EPA, will answer questions and "clarify misconceptions" about the agency's proposed rule governing the definition of waters of the U.S. in a webinar scheduled for 3 p.m. Eastern time on Wednesday.

**Environmental Groups Back EPA Rule Change**, Soil Erosion Online, 06/15/14. Illinois environmental groups are backing a proposed Environmental Protection Agency rule to close loopholes in the Clean Water Act. The change should tackle the issue of increased urbanization causing stormwater runoff.

## **Opinion**



- **Opinion: Contrary to Pa. Farm Bureau, farmers do support clean water**, Reading (PA) Eagle, 07/16/14. Brooks Mountcastle: Putting aside the benefits that wetlands provide for flood control, filtering pollution and recharging groundwater supplies, the Clean Water rule will also be a boon to Pennsylvania's outdoor recreation economy. The U.S. Fish and Wildlife Service reports that Pennsylvania residents and nonresidents spent \$2.8 billion on wildlife recreation, including \$485 million on fishing, in 2011. More than 4.6 million Pennsylvanians participated in wildlife recreation activities in 2011. Brooks Mountcastle is Eastern Pennsylvania Director for Clean Water Action, a nonprofit environmental advocacy group with more than 100,000 members in Pennsylvania.

**Over the Fence: Water is magical**, Reading Eagle, (op-ed), 07/16/14. Garry Lenton: But even this proven piece of legislation remains controversial. Last week, Carl T. Shaffer of the Pennsylvania Farm Bureau posited that extending the protections of the CWA was unnecessary. This week, Robert Mountcastle of Clean Water Action takes the opposite view. But for me, the bottom line is simple. Water, no matter how far upstream it is, must be clean. Garry Lenton is editor of the Eagle's Berks Country section

**Clean, healthy water needed for hot days**, Bend (OR) Bulletin, (letter to the editor), 07/16/14. We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. This "new" proposal is really an old one: It simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams — waters that provide drinking water to 117 million Americans and vital habitat for wildlife.

## **Blogs/Social Media**

- **"Pennsylvania angler engages Congress on clean water importance**, Trout Unlimited blog, 06/15/14. When I started getting into detailed permitting work, that's when it finally got to really understand what's beneficial for streams and what's detrimental," said Ripple, who supports the EPA's and Army Corps of Engineers' efforts to more clearly define protections of intermittent and headwaters streams under the Clean Water Act.

**Pork producers seek Clean Water Act notice and comment period**, Poultry Production News blog, 07/16/14. The interpretive rule would exempt 56 agricultural activities from a proposed rule that would expand jurisdiction and authority of EPA and the Corps of Engineers over certain waters.

### **Jurisdiction Over Wetlands and the Proposed Clean Water Act Rule**

[www.youtube.com/watch?v=5fxdWq-WIKA](http://www.youtube.com/watch?v=5fxdWq-WIKA)

### **Congressional Field Hearing in Arizona on Proposed EPA Water Rule Part One**

<http://www.youtube.com/watch?v=3R4mzuiGX50>



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Izaak Walton League @IWLA\_org 1h

#DitchTheMyth! EPA webinar July 16 to clarify proposed **Clean Water Act** rule. Register at [ow.ly/zbU52](http://ow.ly/zbU52)

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Newburg Equipment @NewburgEquip 5m

top: EPA: Assumptions About **Clean Water Act** Changes Are Ludicrous - John Barrett is a Texas farmer... [j.mp/1zqsCE9](http://j.mp/1zqsCE9) #UnitedStates



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Vermont Law School @VTLawSchool 5h

Webcast of House hearing HAPPENING NOW on @EPA use of authority under #CleanWaterAct to 'veto' #PebbleMine in Alaska. [ow.ly/zbcc6](http://ow.ly/zbcc6)



Regulatory Affairs @Regulations 5h

WATCH LIVE: US Chamber's Kovacs testifies before @Transport Subcommittee on #EPA & #CleanWaterAct - [1.usa.gov/U5JTIH](http://1.usa.gov/U5JTIH)



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## House Panel Backs EPA's FY15 Funding Bill, Setting Up Fight Over Riders

Posted: July 15, 2014

House appropriators have advanced their legislation funding EPA in fiscal year 2015 with a series of controversial riders aimed at blocking key agency policies intact, setting up a battle with Senate Democrats and the White House over the agency's climate, water and other programs that the lawmakers are seeking to block.

The House Appropriations Committee July 15 approved an interior and environment appropriations bill on a 29-19 party-line vote after Republicans defeated a series of Democratic amendments that would have stripped language preventing EPA from proceeding with a dozen policy measures, including its utility greenhouse gas (GHG) rules and Clean Water Act (CWA) jurisdiction rule.

But the White House [has threatened to veto](#) bills that block the climate and water rules, and committee Chair Hal Rogers (R-KY) said after the markup that he was "not sure" if the bill would reach the House floor before lawmakers adjourn for the August recess.

He declined to comment on how legislators could resolve conflicts over the GOP's push to include anti-EPA policy provisions in both chambers' spending bills given White House veto threats. "We'll see -- we've got a ways to go yet before we get to conference," Rogers said.

The White House in a July 9 statement of administration policy formally threatened to veto the House energy & water spending bill, H.R. 4923, in part because "the bill includes objectionable environmental riders that would prevent the use of funds to address known deficiencies and regulatory uncertainties related to Clean Water Act regulations that protect important aquatic resources while supporting economic development."

And Sen. Dianne Feinstein (D-CA) has said that the White House has made clear that President Obama will veto any bill blocking implementation of EPA's climate rules.

But even if the measure clears the House as expected, it is unlikely to gain traction in the Democratic-led Senate, which has opposed efforts to use funding measures as a vehicle for blocking Obama administration policies, to the point of pulling key spending bills to stop the GOP from forcing votes on GHG and water amendments.

The looming impasse over stand-alone appropriations bills means that House Republican lawmakers are looking to conference talks to craft a sweeping omnibus measure addressing funding for EPA and many other agencies. Talks could also lead to a continuing resolution (CR) that continues current funding levels, if legislators cannot agree on FY15 spending terms.

"If they don't pass any bills we're forced into a CR or an omnibus," though the House will push for an omnibus as a way to secure at least some of the GOP's policy goals, Rogers said.

### House Cuts

The House bill [seeks to cut](#) EPA's budget by \$717 million, or 9 percent, down to \$7.5 billion compared to its existing \$8.2 billion funding level. The bulk of the cuts target EPA's state revolving funds (SRFs), which support state and local drinking water and wastewater infrastructure projects. The clean water SRF would be cut 30 percent, from \$1.45 billion to \$1.02 billion, while the drinking water SRF would drop from \$906 million to \$757 million, a 16 percent cut.

During the markup, Republicans voted down a series of Democratic amendments aimed at striking policy riders that bar EPA and other agencies from finalizing or implementing a series of rulemakings that the GOP has opposed.

In particular, one amendment offered by Rep. Jim Moran (D-VA), the outgoing ranking member of the environment subcommittee, would have stripped 25 such riders, including the provisions blocking EPA's GHG, CWA jurisdiction

and lead paint removal rules; one barring EPA from releasing personal information about farm operators; and a series of riders that bar the administration from studying or listing several plant and animal species under the Endangered Species Act, including the sage grouse.

Moran also offered an amendment that would have restored \$470 million of the cut SRF funding by designating funds for fighting wildfires as "emergency" measures not subject to spending caps, which attracted more support than any other Democratic measure but still failed 21-27.

Only three amendments concerning EPA won committee approval, including [one that extends](#) the existing "Buy American" mandate for projects funded through the drinking water SRF through FY15.

The rider, which won bipartisan support in a voice vote, requires any SRF-funded project to use a broad range of domestic iron and steel goods unless the recipient can secure a waiver from EPA, and comes after Congress included a similar mandate for the clean water SRF in this year's Army Corps of Engineers water projects bill.

But the panel approved a further amendment that expands exceptions to the "Buy American" requirement, adding a clause that allows iron or steel that was forged at a domestic facility but shipped abroad for treatment to satisfy the mandate, as long as the final manufacturing process takes place in the United States.

"While we tend to think that a 'Buy American' provision is pro-U.S. There are often unintended consequences . . . Preferential provisions like this often tend to be a double-edged sword, helping some but hurting their neighbors," said Rep. Mark Amodei (R-NV), who offered the second "Buy American" amendment.

Expanding the list of exceptions to the mandate has been a focus of many manufacturers, including some that are targeted by the new amendment because they conduct the lion's share of their activities domestically but use offshore facilities for some processing or finishing tasks. While some industry groups supported the restriction, others have said it leads to complicated procurement and bureaucratic procedures, while calling the current process to obtain a waiver onerous.

EPA in a March 20 guide outlined the process to waive the requirement under current law if domestic supplies are insufficient to meet project demands, if using only domestic goods would be "inconsistent with the public interest" or if it would increase project costs by more than 25 percent.

The final amendment would also bar EPA from finalizing a July 2 direct final rule that allows the agency to garnish non-federal wages without a court order to collect a debt to the agency. -- *David LaRoss*([dlaross@iwpnews.com](mailto:dlaross@iwpnews.com))

CQ NEWS  
July 15, 2014 – 2:36 p.m.

## House Appropriators Battle Over Wildfire Funding

By Lauren Gardner, CQ Roll Call

The House Appropriations Committee advanced a \$30.2 billion bill Tuesday to fund the Interior Department and the EPA for fiscal 2015 after rejecting attempts to designate some wildfire funding as emergency spending.

The measure, approved on a 29-19 vote, would provide \$4.1 billion to both prevent and fight wildfires that are growing in severity as the West grapples with historic drought conditions that scientists say are linked to climate change, including \$470 million for the Forest Service to cover the expected shortfall in suppression funding this year.

Interior-Environment ranking Democrat [James P. Moran](#) of Virginia offered an amendment to include \$615 million in emergency spending to cover an anticipated shortfall in fiscal 2014 funding for wildfire suppression – the same amount requested by President [Barack Obama](#) in supplemental appropriations this month. The proposal would have reallocated the \$470 million in

discretionary funds to state revolving funds dedicated to water infrastructure improvements.

Appropriators rejected the amendment 21-27 after Republican Rep. [Mike Simpson](#) of Idaho argued that acting on the supplemental request now could potentially hamper negotiations with GOP leadership to advance his legislation ([HR 3992](#)) to overhaul how the federal government budgets for wildfires.

"I will tell you that we are working on a variety of fronts to try to get the wildland firefighting legislation, that I think the majority of us want to see passed, passed in this Congress," Simpson said.

The committee also turned back attempts to remove from the bill policy provisions that would block the EPA from implementing several regulations, including carbon pollution limits on new and existing power plants.

## **National Journal**

**July 15, 2014**

**HOUSE COMMITTEE MOVES RIDER-LADEN SPENDING BILL.** The House Appropriations Committee approved its interior and environment spending bill, which comes with plenty of riders to block recent EPA actions. The \$30.2 billion bill passed by a 29-19 vote over Democratic objections that the committee should strip out provisions blocking EPA's rules limiting emissions from power plants, barring its clarification of Clean Water Act jurisdiction, and delaying an Endangered Species Act listing of the sage grouse. There's no schedule for the bill to reach the floor yet.

A number of attempts to strip the controversial riders failed, including subcommittee ranking member Jim Moran's hefty amendment that would have stricken 24 policy provisions from the bill. The committee did approve an amendment that would block EPA from finalizing a rule permitting the collection of fines and penalties by garnishing wages, as well as one requiring that steel and iron used in drinking water infrastructure be sourced domestically.

## **E&E NEWS/WATER POLICY:**

### **NRDC, Farm Bureau spar over invitation to debate EPA rule proposal**

Annie Snider, E&E reporter

Published: Tuesday, July 15, 2014

An environmental group is blasting the American Farm Bureau Federation for declining to participate in a debate about a controversial water proposal from the Obama administration.

Natural Resources Defense Council water attorney Jon Devine [wrote](#) Farm Bureau Federation President Bob Stallman last week challenging his group to a debate on the proposed rule, which would increase the number of streams and wetlands that receive automatic protection under the Clean Water Act as compared with a George W. Bush administration policy that followed two muddled Supreme Court decisions.

The Farm Bureau has been one of the staunchest and most influential opponents of the proposal, helping to shape the debate on Capitol Hill and in public opinion. Among its tools: a slick website dedicated to the issue and a social media campaign calling on the agency to [#ditchtherule](#).

Devine argued that the agricultural group has been making "inflammatory claims" about what the rule would do, even though top U.S. EPA officials have batted them down.

"It seems to us that the American Farm Bureau Federation would much rather invent absurd requirements that the proposal does not include -- but that frighten farmers -- than have a serious discussion about whether streams, nearby waters, and wetlands that perform important functions in their watersheds ought to be covered by the Clean Water Act," he wrote. "However, we believe that the American people, who overwhelmingly support the Act and who benefit from the services performed by these critical waters, deserve an honest discussion about this initiative."

Farm Bureau senior counsel for policy Danielle Quist [wrote](#) Devine yesterday declining the challenge.

"AFBF is hopeful that the long-term process of working for clean water will include serious and mutually respectful discussions among all interested stakeholders who care about both our environment and our economic health," she wrote. "In the meantime, we will continue to direct our comments, concerns and questions about this proposed rule to the agencies, the public and our elected officials."

Devine shot back a [note](#) to Quist today.

"If the American Farm Bureau Federation were truly interested in discussion and truly 'care[d] about both our environment and our economic health,' it would be open to a rigorous public debate about its claims about the clean water proposal," he wrote.

Will Rodger, spokesman for AFBF, said his group declined the debate challenge because "our argument isn't with the NRDC, it's with the EPA."

"We've had a number of discussions with the agency, we have made our objections to the rule clear, and we're waiting for a response from the agency," he said. "We're really looking to the agency to change this rule, not an outside proxy that doesn't have any direct control over where it goes."

Devine said by email that this isn't the first time that the agricultural group has avoided public conversations with him on water issues. He pointed to an [exchange](#) on Facebook in 2012 about a proposed guidance on Clean Water Act jurisdiction that he said the group removed.

The latest skirmish comes as EPA and supporters of the rule have stepped up their defense of the rule. Last week, EPA Administrator Gina McCarthy visited Missouri farm country in a bid to "set the record straight" about what the proposal would do ([E&ENews PM](#), July 9). And this week, sportsmen's groups supportive of the rule are on Capitol Hill asking lawmakers to support and potentially strengthen the regulatory proposal.

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 071514 Clean Water Protection Rule Media Report - 27 items including positive editorial from Alabama and House Approps mark up EPA bill ...  
**Date:** Tuesday, July 15, 2014 11:22:42 AM  
**Attachments:** [image004.png](#)

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FYI.

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**To:** Waage, Melissa  
**Cc:** 'Scott Stapf'; 'Alexander Frank'; [tbutler@sagecommunications.net](mailto:tbutler@sagecommunications.net); Devine, Jon; Hobbs, Karen; Foszcz, Cooper; Mogerman, Josh; Branegan, Jay; Wei, Jacqueline; Fleischli, Steve; Slesinger, Scott; Boom, Marc; [bhammer@nrdc.org](mailto:bhammer@nrdc.org); Watkins, Glenn  
**Subject:** 071514 Clean Water Protection Rule Media Report - 27 items including positive editorial from Alabama and House Approps mark up EPA bill ...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 15, 2014

## News Coverage

**Amendments Piled High for Interior-Environment Spending**, Congressional Quarterly, (see below), 07/15/14. It's Christmas in July for lawmakers who want to advance policy changes related to the Obama administration's environmental agenda that can't be done through traditional authorizing legislation. This morning's markup of the \$30.2 billion fiscal 2015 House Interior-Environment spending bill should attract a litany of amendments to either add in more policy prescriptions or strike the riders from the underlying measure.

**Climate Rule on Chopping Block**, The Hill/Overnight Energy & Environment, 07/15/14. The House Appropriations Committee [will](#) mark up a 2015 spending bill for the Environmental Protection Agency and Interior Department Tuesday morning. The fiscal bill takes aim at a number of EPA rules, and cuts the agency's funding by 9 percent. The legislation seeks to bring down President Obama's signature climate rules, which would cut carbon pollution from the nation's new and existing power plants. It also attacks the EPA's proposal to redefine the government's jurisdiction over bodies of water across the U.S. The

spending bill is expected to pass the committee.

**House panel to take up EPA, Interior Spending**, E&E News, (see below), 07/14/14. But at the markup, where the spending bill passed by voice vote without amendments, Democrats voiced opposition to the many policy riders attached to the measure. Among the most controversial riders are provisions that would bar EPA's proposed rules for limiting carbon dioxide emissions from existing power plants and increasing the number of streams and wetlands that get automatic protection under the Clean Water Act.

**House GOP's FY15 Report Language Aims To Block Slew Of EPA Programs**, Inside EPA, (see below), 07/14/14. And the panel is demanding that EPA respond to a host of lawmakers' letters highlighting concerns with various agency policies, ranging from its proposed greenhouse gas rules for utilities to its Clean Water Act jurisdiction rule. The panel threatens to halve the budget for the EPA administrator's staff and the Office of Congressional and Intergovernmental Relations (OCIR) until officials provide adequate responses to the letters.

**Proposed Clean Water Act Change Causes Controversy**, Wyoming Public Media, 07/14/14. Rhetoric is heating up in Wyoming over new proposed rule from the Environmental Protection Agency. Governor Matt Mead and Senator John Barrasso both claim it will have a huge impact on Wyoming farmers, ranchers and businesses and will give the EPA jurisdiction over more water than ever before. But Professor Mark Squillace of the University of Colorado School of Law disagrees.

**EPA's efforts to clarify the Clean Water Act upsets some Colorado farmers**, Colorado Public Radio, 07/14/15. Yet the proposal is under attack by some the agriculture industry. The National Milk Producers Federation and the American Farm Bureau say the proposal could threaten farming, ranching, homebuilding and energy production. Colorado Farm Bureau president Don Shawcroft worries that the changes could apply to small streams or ditches that cross his ranch in the San Luis Valley.

**EPA's proposed changes in water rules rile agriculture**, Wichita (KS) Eagle, 07/14/14. The backlash from agricultural and rural groups in Kansas and elsewhere in response to proposed changes in federal rules regarding water protection has been strong enough to draw Environmental Protection Agency Administrator Gina McCarthy to the heartland to defend the move.

**Mesa County Opposes Proposed EPA Water Rules**, KREX-TV/Mesa County, CO, 07/15/14. Mesa County Commissioners approved a resolution on Monday to oppose the nationwide Clean Water Act, commonly referred to as Waters of the U.S. Since the opposition resolution has been approved, the next step will be submitting Mesa County's Concerns and Issues to the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers.

**Rocky Mountain Ag Notebook: One farmers group actually likes proposed EPA water rules**, The Fencepost, 07/14/14. Farmers like clean water. And the Rocky Mountain Farmers Union has broken ranks with many other water users in Colorado to support proposed rules meant to clear up discrepancies in U.S. Supreme Court rulings on the Clean Water Act. The group claims false claims are being made about the rules. (Excerpted from Pueblo Chieftain article reported on Friday.)

**EPA water rules concern farmers**, The Franklin (LA) Sun, 07/14/14. Farmers voiced concerns about a proposed revision to the Clean Water Act in a meeting on July 9 with representatives of the U.S. Environmental Protection Agency. More than 130 people turned out for the session with some traveling from north Louisiana and Texas.

**EPA Administrator Commits To Listening To Concerns Regarding Wotus**, Southern Farm Network, 07/14/14. "Everyone is fearing that EPA is regulating ground water and this is not true. Ground water regulation will fall to the states. This rule will not change that. EPA is not regulating lands or all activities in flood plains, or every puddle, dry wash or erosion feature. We are trying to do the opposite. If cattle are crossing a wet field, it's perfectly OK. Because that's a normal thing that happens on a farm. All normal farming processes remain exempt in this proposed rule as they did before."

**McCarthy addresses 'misinformation' about Waters of the US rule**, Ag Week, 07/14/14. U.S.

Environmental Protection Agency Administrator Gina McCarthy was in Missouri last week to counter what she called “myths” about the agency’s proposed Waters of the U.S. rule that have developed among farmers, ranchers and agribusiness leaders.

**Action Request on Water of the U.S.**, Farm Week Now, 07/14/14. Illinois Farm Bureau wants members to call the White House this week to urge President Barack Obama to “ditch the rule” defining “waters of the U.S.” “If the drains and ditches that cross between, among, and within farm fields and pastures are regulated as ‘navigable waters,’ the implications for farmers and ranchers will be disastrous,” according to the action request.

**Bill would add congressional oversight to EPA rulemaking process**, Ripon Advance, 07/14/14. Legislation recently introduced by Rep. Sam Graves (R-Mo.) would halt an EPA proposal to expand federal jurisdiction under the Clean Water Act and would enhance congressional oversight of EPA rules going forward. The Stop the EPA Act would also require congressional approval of any future EPA proposals with an economic impact of more than \$50 million.

**Commissioners sign agreement against EPA act**, Washington (IN) Times-Herald, 07/14/14. The Daviess County Commissioners met Monday morning and signed a resolution against the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers clean water act for stream and wetlands that are part of the national water source.

## **Opinion**

–  
**Pollution plagues our water**, Montgomery (AL) Advertiser, (editorial), 07/14/14. On the national level, proposed rule changes to the Clean Water Act now under review at the EPA are another critical step to rein in unlawful discharge of pollutants. The changes clarify which bodies of water, such as tributaries that filter to rivers, must be protected from toxic dumping and make sense because of the interconnected nature of water systems.

**Clean Water is most important of all**, (Prescott, AZ) Daily Courier, (letter to the editor). 07/14/14. Renee Jacobs: We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. This “new” proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. Renee Jacobs lives in Dewey, AZ.

**The importance of clean water**, The (Grass Valley, CA) Union, (letter to the editor), 07/14/14. Mike Vasser: Summer is here and many of us are heading out to spend time on the water. We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. Mike Vasser lives in Grass Valley.

**Otter on Ditch the Rule**, Today’s Idaho Ag News, (op-ed), 07/15/14. David Sparks: The rule will make it more difficult to farm or change a farming operation to remain competitive and profitable. In a conversation with Gov. Otter, he didn’t exactly hold any punches on the subject. Particularly when asked about irrigation canals. David Sparks Ph.D has 25 years of media related television experience.

## **Blogs/Social Media**

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**House continues to wrestle with Waters of the United States**, DTN The Progressive Farmer/Chris Clayton blog, 07/14/14. House Republicans continue to modify the Obama administration’s proposed plan to define the jurisdiction of the Clean Water Act via the Waters of the United States (WOTUS) rule. Jointly published April 21 by the Environmental Protection Agency and the U.S. Army Corps of Engineers, the proposed rule would bring under federal jurisdiction all tributaries of streams, lakes, ponds and impoundments, as well as wetlands that affect the chemical, physical and biological integrity of larger, navigable downstream waters.

**Congress's Latest Assault on the EPA**, For Effective Government blog, 07/14/14. The bill is just the latest chapter in what has become a never-ending effort by anti-regulatory members of Congress to politicize and demonize efforts by the EPA to address needed safeguards that address essential public health and environmental issues such as climate change and protecting the country's air and water quality.

**Looks like a busy week for Oklahoma's congressional delegation**, Tulsa World/Randy Krehbiel blog, 07/14/14. Tuesday morning, Second District Congressman Markwayne Mullin's Transportation subcommittee will hold a hearing on the Environmental Protection Agency's proposed rule change involving water regulated under the Clean Water Act. The issue is a matter of growing concern in Oklahoma, particularly among farmers and ranchers.

- **Clean water is a basic human right.**

<https://www.facebook.com/friendsofwater14>



**NE-MW Institute** @NEMWUpperMiss\_ 5h

The Hill: House lawmakers step up assault on regulations (including **Clean Water Act** regs) [ow.ly/z7Xe7](http://ow.ly/z7Xe7)



**Cedric Bond** @Kayakracerbond 57s

"Clearly, the vision of the **Clean Water Act** remains unrealized for many of America's waterways," [shar.es/NZOpp](http://shar.es/NZOpp) @wateronline

[Expand](#)



**purduephil** @purduephil 3h

**Clean Water Act** proposal has muddied the waters [bit.ly/1mFKtC0](http://bit.ly/1mFKtC0)

[View summary](#)



**Maryland LCV** @MDLCV 2h

The **Clean Water Act** is under attack! Contact your Congress member to support the Clean Water Rule & the #ChesBay! [ow.ly/z8h4o](http://ow.ly/z8h4o)

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## Amendments Piled High for Interior-Environment Spending Bill

By Geof Koss and Lauren Gardner, CQ Roll Call

### In today's Morning Take:

It's Christmas in July for lawmakers who want to advance policy changes related to the Obama administration's environmental agenda that can't be done through traditional authorizing legislation. This morning's markup of the \$30.2 billion fiscal 2015 House Interior-Environment spending bill should attract a litany of amendments to either add in more policy prescriptions or strike the riders from the underlying measure. The latter effort is expected to be led by the subcommittee's ranking Democrat, [James P. Moran](#) of Virginia, who is retiring at the end of this Congress.

Expect to hear plenty of debate about efforts by federal, state and local governments to save the sage grouse, a threatened bird that is being considered for listing under the Endangered Species Act. An industry lobbyist hinted Monday that further action may occur on Republican efforts to prevent the executive branch from using its social cost of carbon estimates to back up any of its climate regulations until federal auditors study the process the administration used to craft the numbers.

The EPA's anticipated regulation of coal ash, a by-product of burning coal at power plants, may also come up during the markup.

### House panel to take up EPA, Interior spending

Amanda Peterka, E&E reporter

Published: Monday, July 14, 2014

The House Appropriations Committee will take up a fiscal 2015 spending plan this week for the Interior Department and U.S. EPA, though the resulting bill is unlikely to make it to law as standalone legislation.

The \$30.22 billion legislation represents an increase over enacted levels, but most of that increase would go toward fire-suppression efforts and the payments-in-lieu-of-taxes (PILT) program. EPA would receive \$7.5 billion, a 9 percent cut from fiscal 2014 levels, and would be required to reduce staffing to the lowest level since the George H.W. Bush administration ([Greenwire](#), July 8).

Rep. Ken Calvert (R-Calif.), chairman of the Interior, Environment and Related Agencies Appropriations Subcommittee, called the proposed legislation a "sincere effort to prioritize critical needs" at a markup last week.

But at the markup, where the spending bill passed by voice vote without amendments, Democrats voiced opposition to the many policy riders attached to the measure ([Greenwire](#), July 9).

Among the most controversial riders are provisions that would bar EPA's proposed rules for limiting carbon dioxide emissions from existing power plants and increasing the number of streams and wetlands that get automatic protection under the Clean Water Act.

Rep. Jim Moran (D-Va.), the subcommittee's ranking member, also said he was opposed to the bill's \$717 million cut to EPA's budget.

"It's time to stop thinking of EPA accounts ... as just an easy pool of money for other agencies and programs," Moran said.

On the Interior side, the bill would provide more funding for fighting wildfires, allocating higher sums to both the Interior's and the Forest Service's fire-suppression accounts. In all, wildland firefighting and prevention programs would receive \$4.1 billion, \$149 million more than the fiscal 2014 enacted level.

The bill would also provide \$442 million for Payments in Lieu of Taxes, a program to compensate local communities for tax revenue they cannot collect from federal land.

PILT has received mandatory funding since 2008, but the bill being considered this week would fund the program on the discretionary side. At last week's subcommittee markup, Democrats said they worried that both wildfire and PILT funding was digging into other Interior programs.

Land acquisition and assistance programs, for example, would be cut by nearly 50 percent under the spending plan.

"Redesignating PILT as discretionary creates another funding shortfall in the bill and compromises our ability to better protect the environment," House Appropriations Committee ranking member Nita Lowey (D-N.Y.) said.

When it comes to coal and mining issues, the language includes riders against the administration's efforts with respect to stream protection and financial assurances for hardrock mines.

Lawmakers may also float an amendment to prevent the agency from regulating coal ash as a hazardous substance, as Rep. David McKinley (R-W.Va.) has requested.

Last week's U.S. Court of Appeals for the District of Columbia Circuit ruling in favor of EPA guidance and enhanced coordination on mountaintop mining may also prompt a response from appropriators.

Lawmakers may also float amendments to take stabs at the administration's social cost of carbon and EPA regulations not already included in the bill.

If passed by the Appropriations Committee, the measure would go to the full House for approval. Six spending bills have so far made it through the House as lawmakers work toward the beginning of fiscal 2015 on Oct. 1.

The Senate is unlikely to swallow the riders included in the House Interior-EPA legislation. Senate Majority Leader Harry Reid (D-Nev.) last week said the climate rider would be dead on arrival in the upper chamber.

**Schedule:** The markup is Tuesday, July 15, at 9 a.m. in 2359 Rayburn.

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**Daily News/Inside EPA**

## House GOP's FY15 Report Language Aims To Block Slew Of EPA Programs

Posted: July 14, 2014

House Republican lawmakers are floating fiscal year 2015 budget bill report language that recommends blocking funding for a slew of EPA programs ranging from a ballast water rule to using controversial social cost of carbon (SCC) estimates in its rulemakings, while also directing the agency on how to spend major waste and water funds.

The lower chamber's Appropriations Committee released the [non-binding report language](#) July 14, one day ahead



of a slated July 15 full spending panel markup of EPA's spending legislation. The legislative text would cut EPA's budget by \$717 million, or 9 percent, down to \$7.5 billion compared to its existing \$8.2 billion funding level and includes policy provisions barring implementation of major EPA climate, water and other rules.

The pending report language adds to those prohibitions by recommending that funding in FY15 be prohibited for various other agency programs not addressed in the mandatory legislative text.

And the panel is demanding that EPA respond to a host of lawmakers' letters highlighting concerns with various agency policies, ranging from its proposed greenhouse gas rules for utilities to its Clean Water Act jurisdiction rule. The panel threatens to halve the budget for the EPA administrator's staff and the Office of Congressional and Intergovernmental Relations (OCIR) until officials provide adequate responses to the letters.

Although the House Republicans are pushing ahead with the FY15 budget bill markup, the Democratic-led Senate is expected to oppose the major cut to EPA's funding, and also fight the policy riders.

As a result, some lawmakers [are suggesting](#) that the House could approve a spending bill and then force conference negotiations with whatever funding measures are still pending in the Senate, likely resulting in an omnibus funding package for several agencies that could include some EPA policy restrictions.

Whatever final report language the House Appropriations Committee approves for EPA could help guide future conference talks, including the scope of policy riders.

Similar to report language on the House Appropriations Committee's energy and water subcommittee's FY15 [funding bill](#), the new EPA FY15 report language would bar EPA and other agencies from using the administration's controversial 2013 revisions to the SCC -- the measure of benefits from carbon dioxide reductions that forms the basis for many agencies' climate rules -- until the Government Accountability Office and others have reviewed the issue.

EPA would also be barred from enforcing contested provisions of the 2013 vessel general permit dealing with ballast water, arguing that the permit relies on testing technology that is not commercially available. EPA has designated the provision as a ["low enforcement" priority](#) in response to industry concerns, but many domestic shippers have argued that relying on enforcement discretion to remedy the issue may be too uncertain.

### **Funding Guidance**

The panel in its draft language defends provisions in the FY15 EPA bill that would cut appropriations to the state revolving funds (SRFs) that support clean water and drinking water infrastructure by a combined \$579 million -- or 25 percent -- from the FY14 total of \$2.35 billion.

The panel says that while the need for new or restored infrastructure is "pressing," federal spending has been unable to solve the problem and EPA should investigate other funding mechanisms.

"Public-private partnerships, greater access to financing from private activity bonds and improved asset management are just a few of the mechanisms that the Committee believes could serve to increase investment in a complementary way to Federal appropriations and reduce costs," the report says.

The report language mentions as a possible solution the Water Infrastructure Finance and Innovation Authority (WIFIA), a novel water infrastructure financing pilot program enacted by this year's Army Corps of Engineers water project bill, though the committee is not proposing to fund the program in FY15.

Instead, mirroring language from the House Appropriations Committee's energy and water subcommittee's FY15 funding bill, the report directs EPA "to submit to the Committee a detailed plan for how full funding of the WIFIA provisions would be implemented."

The report also offers guidance on the Superfund program, where the committee is proposing to raise the budget by 6 percent, from \$1.09 billion to \$1.16 billion. The extra \$70 million should go toward the backlog of 10-15 new

cleanups expected in FY15, the committee says.

And it further urges EPA to use the funding to "support pipeline activities such as remedial investigations, feasibility studies, and remedial designs which are critical steps prior to construction."

Finally, the report berates EPA for "a backlog of responses to Congressional letters, questions for the record, and informal questions" related to key EPA policies and political concerns, as well as repeated delays in answering questions raised at hearings, leading to those answers being excluded from the hearing records.

"The pattern suggests an ongoing and systematic approach to hinder Congressional oversight via a lack of responsiveness to Congressional inquiries," the report says.

Until EPA submits timely responses to those inquiries, the report continues, budgets for OCIR and the administrator's office will be reduced to 50 percent of FY14 levels, cutting \$1.7 million for the administrator's office and \$3.6 million for OCIR. -- *David LaRoss* ([dlaross@iwpress.com](mailto:dlaross@iwpress.com))



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 071414 Clean Water Protection Rule Media Report - 35 items including positive editorial in Cleveland Plain Dealer, LTEs in WaPo, Baltimore Sun ...  
**Date:** Monday, July 14, 2014 10:33:39 AM

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Monday, July 14, 2014 10:22 AM  
**To:** Waage, Melissa  
**Subject:** 071414 Clean Water Protection Rule Media Report - 35 items including positive editorial in Cleveland Plain Dealer, LTEs in WaPo, Baltimore Sun ...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 14, 2014

### News Coverage

**EPA Chief Might Pull Water Rule**, Congressional Quarterly, 07/12/14. The Obama administration has signaled openness to pulling an interpretive rule that was intended to spell out agricultural exemptions to permitting requirements under the Clean Water Act (PL 95-217). Some farm groups have called on the Obama administration to withdraw the interpretive rule, or to at least allow for public comment on it. They argue that it would essentially force farmers to meet Department of Agriculture standards if they want to qualify for the exemptions.

**EPA Assault Continues**, Congressional Quarterly, 07/14/14. The full House Appropriations Committee tomorrow morning will mark up the \$30.2 billion Interior-Environment spending bill, and it's sure to run long. Also Tuesday, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment will examine EPA's permit veto authority under the Clean Water Act (PL 95 217). Recall, however, that the Supreme Court refused to take up a case challenging EPA's interpretation of that power, and as we reported Friday, the District of Columbia Circuit just affirmed a key permitting regime for mountaintop mining. On Wednesday, the full Transportation Committee will mark up a series of bills, including new legislation to prohibit EPA from implementing the proposed Water of the United States rule.

**GOP continues assault on EPA rules**, The Hill, (see below), 07/13/14. House Republicans will open a new chapter this week in their assault on the Environmental Protection Agency (EPA). The House Appropriations Committee will meet Tuesday to consider the spending bill for EPA. The bill would block far-reaching EPA rules covering air and water pollution.

**EPA Under Fire**, National Journal, (see below), 07/13/14. Among the more controversial will be provisions blocking the Environmental Protection Agency's rules limiting carbon emissions from power plants and a clarification of the agency's Clean Water Act jurisdiction, both of which were also attached to the Energy spending bill. Democrats, meanwhile, are expected to try to restore some of the \$717 million cut from EPA's budget and try to fend off some of the attacks on the president's climate plan.

**Local beaches ace "clean" test**, Newburyport (MA) News, 07/12/14. The report comes as state and national environmental groups push for tough new regulations aimed at extending federal Clean Water Act protections for inland streams and wetlands to minimize polluted runoff that contributes to poor beach water quality and promotes algae blooms. The EPA and U.S. Army Corps of Engineers have proposed new rules, which are being reviewed by regulators.

**Action Request on Waters of the U.S.**, Farm Week Now, 07/14/14. Illinois Farm Bureau wants members to call the White House this week to urge President Barack Obama to "ditch the rule" defining "waters of the U.S." "If the drains and ditches that cross between, among, and within farm fields and pastures are regulated as 'navigable waters,' the implications for farmers and ranchers will be disastrous," according to the action request.

**EPA sets out to explain water rule that's riled U.S. farm interests**, McClatchy Washington Bureau, 07/12/14. The American Farm Bureau Federation has come out against it, saying on a website of the same name that the EPA needs to "ditch the rule." Other farm groups and associations involved with land use have pushed back as well, saying that the proposed rule is too broad and will give the EPA far more control over agricultural and other lands than it now has. (Reported last week as appearing in several papers.)

**EPA on permits/jurisdiction in water rule**, Brownfield Ag News, 07/11/14. If farmers didn't need a water permit before they won't need one with the new rule of the Clean Water Act — That's what EPA Administrator Gina McCarthy told members of the Kansas City AgriBusiness Council on Thursday, the day after she told that to reporters on a Missouri farm tour. "Unless you're really doing something that's disturbing this in a significant way or adding pollutants downstream you never need to connect with EPA about it. It's not as if we're requiring a permit with a new rule that we didn't have before," McCarthy said on the farm tour.

**EPA rebuts complaints about proposed water rule**, WGRZ-TV/Buffalo, NY, 07/13/14. The so-called interpretive rule is a response to two U.S. Supreme Court decisions. EPA officials say it will be science based and use recommendations from a science advisory panel. In a letter to EPA this week, the New York Farm Bureau said the rule "establishes new binding and enforceable requirements on farmers."

**Mid-Hudson congressional roll call: Week ending July 11, 2014**, (NY) Daily Freeman, 07/12/14. Voting 253-170, the House on July 10 passed a bill (HR 4923) that would appropriate \$30.4 billion for energy, water and nuclear safety programs in fiscal 2015. Additionally, the bill prohibits funding for certain environmental protections under the Clean Water Act and Clean Air Act, prohibits the Army Corps of Engineers from enforcing its ban on firearms on its land and limits U.S. cooperation with Russia in nuclear-nonproliferation programs.

**Minnesota Farm Bureau Submits Comments on EPA's Clean Water Act Interpretive Rule**, Minnesota Farm Bureau blog, 07/11/14. The Minnesota Farm Bureau Federation submitted comments this week asking for the withdrawal of the Environmental Protection Agency's (EPA) Interpretive Rule that will govern how they interpret the "normal farming exemptions" contained in the Clean Water Act. "The Minnesota Farm Bureau Federation (MFBF) has significant concerns with the EPA's Interpretive Rule and are asking that the EPA and the Army Corps of Engineers withdraw the rule immediately," said MFBF President

Kevin Paap.

**Minnesota Farm Bureau on EPA water rule**, Morning Ag Clips, 07/13/14. The Minnesota Farm Bureau Federation submitted comments this week asking for the withdrawal of the Environmental Protection Agency's (EPA) Interpretive Rule that will govern how they interpret the "normal farming exemptions" contained in the Clean Water Act. "The Minnesota Farm Bureau Federation (MFBF) has significant concerns with the EPA's Interpretive Rule and are asking that the EPA and the Army Corps of Engineers withdraw the rule immediately," said MFBF President Kevin Paap.

**Famers voice concerns about EPA water rule**, The (Monroe, LA) News Star, 07/13/14. Farmers voiced concerns about a proposed revision to the Clean Water Act in a recent meeting with representatives of the U.S. Environmental Protection Agency. More than 130 people turned out for the session with some traveling from north Louisiana and Texas. Eugene Thilstead, EPA agriculture adviser, said the revisions will not broaden the Clean Water Act's scope, and the regulations will not increase to include ditches

## **Opinion**

**Pump Up Great Lanes Restoration, but don't water down Clean Water Act**, Cleveland Plain Dealer, (editorial), 07/11/14. A funding bill released Tuesday by a U.S. House of Representatives appropriations subcommittee floats the boats of both hope and dismay for the Great Lakes. On the down side, the bill muddies the waters by narrowing the definition of which small streams and wetlands are protected by the Clean Water Act. The subcommittee needs to deep-six that kind of meddling.

**The Potomac needs the protection of the Clean Water Act provides**, Washington Post, (letter to the editor), 07/13/14. Erin Hodge: Regarding the July 9 editorial "Clear rules for clean water": The Environmental Protection Agency's new plan would do just that. By restoring Clean Water Act protections to these streams, this plan can protect the Potomac. I urge the EPA to finalize its rule, and restore Clean Water Act protections to all of Virginia's waterways. Erin Hodge lives in Great Falls, VA.

**Clean up the bay before it's too late**, Baltimore Sun, (letter to the editor), 07/12/14. Caroline Kennedy: I love Maryland and feel that the Chesapeake Bay is one of the state's many gems. I urge Marylanders to support the Environmental Protection Agency's efforts to close loopholes in the Clean Water Act so that not only Maryland's precious water is saved, but water around the country as well. Caroline Kennedy is an American author, attorney, and diplomat who is the current United States Ambassador to Japan.

**The glacier of environmental regulation**, High Plains Journal, 07/14/14. Ken Root re-examines the actions of the Environmental Protection Agency. The example today is the Clean Water Act, which was originally passed in 1972. Working upstream from rivers and lakes to small tributaries, the CWA has been used to steadily control more of the waters of the United States. The final piece, in this slow but steady progression, is the initial pathway of raindrops across fields and pastures on private land. Ken Root has been an agricultural reporter for 39 years. Root now does daily radio and television programming and is a columnist.

**EPA Rules**, Santa Monica Daily Press, (letters to the editor), 07/13/14. Liz Redwing: This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams – waters that provide drinking water to 117 million Americans and vital habitat for wildlife. Liz Redwing lives in Marina Del Ray

**No ditching the water issue**, DTN Progressive Farmer, (op-ed), 07/11/14. Greg D. Horstmeier: Farm groups continue to raise concern about the ultimate goal of new "interpretive rules" regarding the Clean Water Act and what constitutes "waters of the United States," which the CWA is authorized to hold sway over. If you haven't followed our coverage on the issue, the concern is that if one takes the CWA language to its ultimate conclusion, as some lawsuit-happy citizens want to do, any mud puddle or field ditch, which ultimately drains into a regulated water body, could be regulated. Greg D. Horstmeier is editor in chief of DTN Progressive Farmer.

## **Social Media/Blogs**

Join us for a Clean Water Celebration along with Rocky Mountain Farmers Union, the Colorado Renewable Energy Society, and the American Sustainable Business Council for a meet and greet with Senator **Mark Udall**. <https://www.facebook.com/CleanWaterActionColorado>

The EPA issued a rule called “Waters of the United States” in April to clarify the geographic scope – and limits – of the federal Clean Water Act. But opponents insist the rule expands the agency’s mandate instead. <https://www.facebook.com/2onyourside/posts/10152529745525359>

**Forget Farm Owners, the EPA Is Drafting a Rule to Claim Control Over Local Waterways Like Ditches and Streams**, The Daily Smug Blog, 07/13/14. The Environmental Protection Agency is planning to expand its jurisdiction over the nation’s waterways under the Clean Water Act to include ditches, small streams, ponds, and other purely local waterways.

**Sam Graves takes on the EPA just in time for the GOP primary**, Show Me Progress blog, 07/11/14. All of which left me a little flummoxed when I read today that Graves has taken on the role of a GOP David and aimed his slingshot at the rightwing’s favorite Goliath, the EPA:



**Marcy Kaptur** @RepMarcyKaptur Jul 11

Pump up Great Lakes restoration, but don't water down **Clean Water Act**. Editorial at [Cleveland.com](http://Cleveland.com). [cleveland.com/opinion/index](http://cleveland.com/opinion/index).....



**Washington Post** @WashingtonPost 23m

The Potomac needs the protection the **Clean Water Act** provides - SECTION:... [j.mp/U9hGKx](http://j.mp/U9hGKx)  
[#CleanWaterAct](#) [#PostWriter](#)



**Asheville's Dream Team** @PatandDonnaNC 4h

NAR Testifies Against Expanded **Clean Water Act** Regulations [#realty](#) [bit.ly/1zAGPhV](http://bit.ly/1zAGPhV)



**RFD-TV** @OfficialRFDTV Jul 11

EPA fights a battle of words with farmers & ranchers over the proposed ag rule change to **Clean**

## Water Act #MarketDayReport



**Todd Neeley** @toddnneeleyDTN Jul 11

#EPA's McCarthy asks farmers to give details on what needs to be fixed in **Clean Water Act** rule. #DTN, [tinyurl.com/8aot7wn](http://tinyurl.com/8aot7wn)

89.1

**KMUW** @KMUW Jul 11

EPA: **Clean Water Act** Won't Tighten Farm Regulations [ow.ly/z3ESe](http://ow.ly/z3ESe)

[Expand](#)



**Cerebellum Beverages** @CerebellumH2O 53m

The Potomac needs the protection the **Clean Water Act** provides [dlvr.it/6K3YTP](http://dlvr.it/6K3YTP)

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**US Army Corps  
of Engineers**  
Jacksonville District

**USACE Jax District** @JaxStrong Jul 11

Purpose of proposed **Clean Water Act** rule is to provide clarity, consistency and predictability of jurisdictional decisions. #UOH14



**The Kansas City Star** @KCStar Jul 11

Editorial: EPA needs to clarify **Clean Water Act** rule for farmers [bit.ly/1y2LBD6](http://bit.ly/1y2LBD6)

[Expand](#)

Ramon Palencia explains in Spanish why the clean water rule is important.

<https://www.youtube.com/watch?v=7TiSV25OMdA>

NPPC pushes back against EPA proposed rule under Clean Water Act by ... EPA White Board: Clean Water ... Posted by Deb Kleiner – 9 hours ago:

[EPA Clean Water Rule JR TOLBERT - YouTube](#)

[EPA Clean Water Rule ILLANA NAYLOR - YouTube](#)

[EPA Clean Water Rule KATE WOFFORD - YouTube](#)

[EPA Clean Water Rule RIDGE HALL - YouTube](#)

[EPA Clean Water Rule ELIZABETH AWUAH - YouTube](#)

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## **GOP continues assault on EPA rules**

*By Timothy Cama, The Hill*

House Republicans will open a new chapter this week in their assault on the Environmental Protection Agency (EPA).

The House Appropriations Committee will meet Tuesday to consider the spending bill for EPA. The bill would block far-reaching EPA rules covering air and water pollution.

The GOP-led House has focused much of its attention recently on EPA proposals to fight climate change by limiting carbon dioxide pollution from power plants and to redefine the federal government's jurisdiction under the Clean Water Act.

Republicans this week threatened to subpoena the agency for its refusal to disclose internal information about how it wrote some of its rules. They also introduced a spending bill that would block funding for some of the administration's major environmental priorities and another bill to stop every regulation the EPA is working on.

Rep. Jim Moran (D-Va.), the top Democrat on the Appropriations subcommittee that oversees the EPA, this week allowed the GOP spending bill that would block the agency's power plant rules to move forward on a voice vote.

Democrats, however, have pledged to be tougher when it is considered by the full spending panel, and they promise amendments to remove the policy riders and defend the Obama administration's priorities.

Elsewhere on Capitol Hill, the Senate Environment and Public Works Committee's water and wildlife subcommittee will mark up 11 bills at a Wednesday meeting. The bills would crack down on sewage dumping in the Great Lakes, improve the federal government's ability to control invasive animal species and make it easier to comply with wildlife habitat rules when building infrastructure, among other provisions.

Two of the subcommittees of the House Science Committee will co-host a hearing Wednesday to check on reforms to the EPA's Integrated Risk Information System, the program the agency uses to evaluate the health effects of various contaminants.

The House Energy and Commerce Committee will hold a markup meeting Monday and Tuesday, when it will consider a bill to exempt certain service and repair parts for external power supplies from the Energy Department's efficiency guidelines.

Off Capitol Hill, the Energy Information Administration (EIA) will hold its annual Energy Conference Monday and Tuesday. The keynote speakers will include International Energy Agency Executive Director Maria van der Hoeven and House Energy and Commerce Committee Chairman Fred Upton (R-Mich.).

The EIA has invited a number of representatives from government, academia, nongovernmental organizations, the private sector and other groups to speak. The agency said the discussion will cover international energy issues, crude oil exports from the United States, vehicle energy demand, biofuels and energy production trends.

There will be two events next week about the EPA's power plant carbon rules unveiled in June. The Environmental Law Institute will host a workshop on the rules Monday, and the American Council on Renewable Energy will hold a Wednesday seminar about those rules as well as the EPA's renewable fuel mandate.

The Atlantic Council will host a discussion on energy security in Latin America on Wednesday. The event will focus on Petrocaribe, the coalition of countries in South and Central America that buy oil from Venezuela, and the energy security of those countries moving forward.

Securing America's Future Energy and the Foreign Policy Initiative will host their own event Monday on energy security, examining the need for the United States to improve its energy security. Rep. Cory Gardner (R-Colo.) will speak at the event.

## **ENERGY and ENVIRONMENT – National Journal, 07/13/14**

### **EPA Under Fire**

With the Senate in on Monday but with no votes set, Reid has teed up the nominations of Norman Bay and Cheryl LaFleur to be members of the Federal Energy Regulatory Commission for Tuesday.

Democrats have said they're confident they have the votes to move the nominations, but Bay in particular has sparked some opposition for his role in prosecuting companies for allegedly violating federal rules when he headed FERC's enforcement office.

A week after the full House cleared the spending bill for the Energy Department, the House Appropriations Committee is to take up the Interior and Environment spending bill, which comes equipped with plenty of anti-EPA riders.

Among the more controversial will be provisions blocking the Environmental Protection Agency's



rules limiting carbon emissions from power plants and a clarification of the agency's Clean Water Act jurisdiction, both of which were also attached to the Energy spending bill. Democrats, meanwhile, are expected to try to restore some of the \$717 million cut from EPA's budget and try to fend off some of the attacks on the president's climate plan.

EPA will continue to face hostile pushback from House conservatives on Tuesday during a House Transportation and Infrastructure Water Resources and Environment Subcommittee hearing to examine the agency's proposal to clarify its jurisdiction over streams and wetlands.

On the other side of the Capitol on Tuesday, the Senate Energy and Natural Resources Committee will examine the president's proposed Forest Service budget for fiscal 2015 and whether it grants sufficient funding for wildfire prevention and readiness. Federal funds set aside to fight wildfires have been stretched thin in recent years as fires increase in number and severity. The president's budget request to Congress would allow the Forest Service to dip into disaster-relief funds to fight the costliest blazes.

A House Science subcommittee will tackle EPA's system for testing the human health risks of environmental contaminants on Wednesday. The Integrated Risk Information System program has taken flack for its backlog and lack of transparency, but EPA's Kenneth Olden, who oversees the National Center for Environmental Assessment, will defend reforms made to the IRIS process last year.



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 071114 Clean Water Protection Rule Media Report - 38 items including McCarthy signaling possible rule withdrawal while break away farm group supports it...  
**Date:** Friday, July 11, 2014 11:44:26 AM

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FYI.

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# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 11, 2014

### News Coverage

**McCarthy Suggests Dropping Controversial CWA Permit Waivers for Farms**, Inside EPA, (see below), 07/10/14. McCarthy told the Missouri audience that the agency's intent in issuing the interpretive waiver is to ensure the conservation practices are exempt without farmers having to seek specific federal approval. "We added 56 exemptions because we want to boost conservation without boosting bureaucracy," McCarthy said. But she signaled that EPA is willing to consider alternative approaches, and may be considering pulling the final rule. One group, the National Association of Conservation Districts, has already suggested an alternative that the agencies could craft a CWA general permit to cover agriculture conservation practices without farmers needing to seek specific approval from the Corps.

**Overnight Energy/News Bites**, The Hill, 07/10/14. Waters rule ... EPA chief Gina McCarthy spoke with farmers Thursday in Missouri about the Waters of the United States rule intended to clarify the agency's jurisdiction for the Clean Water Act, and said misinformation about the rule is crowding out the issues in public discussions about the proposal. In D.C., all we hear about are things like: EPA's new rule will shut down the July 4th fireworks, EPA is trying to regulate the rain in puddles on driveways and in play-grounds, and every conservation practice that we all want to see happen will now require a permit," McCarthy told the Agricultural Business Council of Kansas City, [according](#) to her prepared remarks. None

of that is true, she said. Ken Kopocis, McCarthy's clean water adviser, told Farm Futures that a Missouri agricultural group's [ad](#) opposing the rule appears to be at factual odds with the reality of the proposed rule."

**[House passes sixth '15 appropriations bill](#)**, The Hill, 07/10/14. One provision would prohibit the Army Corps from working on a modification to a 2008 regulation defining "full material," which is waste left over from mining operations like mountain top removal. Another controversial rider would block the Corps from working on a rule with the Environmental Protection Agency to clarify its jurisdictional authority over streams and wetlands in the U.S.

**[Farmer group likes new rules](#)**, Pueblo Chieftain, 07/11/14. Farmers like clean water. And the Rocky Mountain Farmers Union has broken ranks with many other water users in Colorado to support proposed rules meant to clear up discrepancies in U.S. Supreme Court rulings on the Clean Water Act. The group claims false claims are being made about the rules.

**[EPA meeting in Atlanta on proposed Clean Water Act rule](#)**, Atlanta Journal-Constitution, 07/10/14. Local officials from across the Southeast met Thursday in Atlanta as talks continued about what one called "a common sense approach" toward proposed new federal water rules. "All of us have an interest in clean water" and want to understand what the proposal would mean for local municipalities, said Sue Hann, city manager of Palm Bay, Fla., and chairwoman of the advisory committee's "protecting America's waters" work group.

**[EPA chief defends proposed clean water rules](#)**, Associated Press/Kansas City, MO, 07/10/14. Agriculture groups and farm-state politicians contend the proposed rules would give the government more power to dictate what farmers can do on their own land. They say the rules are an example of governmental interference by bureaucrats who don't know as much as farmers do about how to be good stewards of their land.

**[Lawmakers roast EPA's second-in-command over rulemaking](#)**, E & E News, (see below), 07/10/14. U.S. EPA Deputy Administrator Bob Perciasepe faced deep skepticism from House lawmakers yesterday over the agency's proposal to clarify the Clean Water Act's reach. "The EPA is on a regulation rampage and this regulation proves it," House Science, Space and Technology Chairman Lamar Smith (R-Texas) said during a hearing yesterday.

**[Governor Says He's 'Pushing Back' on Federal Overreach](#)**, Prairie Farmer Magazine, 07/11/14. The Waters of the U.S. proposed regulation poses a threat to Kansas, to the sovereignty of state and the freedom of its people, Brownback said. "We in Kansas, we fight for our water, we have been involved in three lawsuits over water rights. We will protect our water and there is no reason for the federal government to have further intrusion into Kansas," he said.

**[Collins hammers EPA over Waters of the U.S. proposal](#)**, The (Batavia, NY) Daily News, 07/11/14. Congressman Chris Collins Wednesday questioned Environmental Protection Agency Deputy Administrator Robert W. Perciasepe, at a Science, Space, and Technology Committee hearing on the EPA's overreaching rule proposal entitled "Definition of the 'Waters of the United States' Under the Clean Water Act."

**[Hoeven calls for Senate to eliminate Waters of the US rule](#)**, AgWeek, 07/10/14. In a speech on the Senate floor, Sen. John Hoeven, R-ND., called on the Senate to stand up for farmers and ranchers and cote on an amendment he is cosponsoring that prevents the Environmental Protection Agency and the Army Corps Of Engineers from finalizing their proposed Waters of the U.S. rule.

**[Graves Introduces Legislation to Stop the EPA](#)**, St. Joseph (MO) Post, 07/10/14. As Administrator McCarthy travels the state this week in an attempt to see the Administration's radical agenda to farmers and property owners, Congressman Graves has offered comprehensive legislation to protect middle class families and small businesses from an out-of-control and aggressive EPA regulatory agenda.

**[Missouri Lawmaker Introduces Bill to Halt All EPA Regulations](#)**, Think Progress, 07/10/14. Rep. Sam

Graves (R-MO) [introduced a bill](#) on Wednesday that would halt all EPA rules that are currently in the works and prompt a review of all previous EPA regulations. H.R. 5034, titled the Stop the EPA Act, would also require Congress to approve all previous and new regulations that cost \$50 million or more. Under the bill, any that aren't approved by Congress won't become law.

**[Rahall applauds advancement of bill to stop EPA rules](#)**, The (Elkins, WV) Inter-Mountain, 07/11/14. The bill would prevent EPA from finalizing a new rule to redefine "waters of the United States" (WOTUS), expanding the places subject to Clean Water Act permitting. As well, it would block proposed changes to the definitions of "fill" and "stream buffer zone," changes that would impede coal mining.

**[EPA Promotes Water Rule to Farmers](#)**, Iowa Public Radio, 07/10/14. The EPA wants to clarify a portion of the Clean Water Act to give the agency more control over millions of acres of wetlands and streams. But many farm groups contend that the rule would allow the agency to dictate how farmers use certain bodies of water on farmland. McCarthy, though, maintains the rule change isn't meant to burden farmers, but to protect downstream waters.

**[Issues on horizon for cattlemen](#)**, AgriNews, 07/10/14. One of the major issues is a proposal to change the definition of the waters of the U.S. in the Clean Water Act. "This is one of the biggest changes we've seen when it comes to the Clean Water Act," Woodall said. "The changes that have been proposed basically would take everything that could hold water and turns it into the jurisdiction of the U.S. Army Corps of Engineers and the Environmental Protection Agency." The act was intended for navigable waters where there is commerce.

**[Proposed Clean Water rules raise ire](#)**, AgriNews, 07/10/14. Minnesota Farm Bureau is mobilizing its members in an effort to get the Environmental Protection Agency to ditch its proposed Clean Water Act rules. "We've got to let them know this is a big deal," said Kevin Paap, Minnesota Farm Bureau president.

**[Water regulation at issue](#)**, Meat & Poultry, 07/10/14. An interpretive rule that accompanies a proposed Clean Water Act (CWA) regulation is a legislative rule that must go through notice and comment rulemaking, said a group of agricultural organizations led by the National Pork Producers Council (NPPC) and the American Farm Bureau Federation. NPPC previously requested that the Environmental Protection Agency (EPA) and the Corps of Engineers withdraw the interpretive rule.

**[Definitions in Proposed Water Rule Still Murky](#)**, AgWeb, 07/10/14. For farmers, EPA's proposed changes to the Clean Water Act and the definitions of Waters of the U.S. (WOTUS) are a double-edge sword. On one hand, the proposed rule should clarify issues of when permits are needed. Yet, it's also seen as an [overreach of EPA's authority](#).

**[EPA Administrator Visits Rocheport Farm](#)**, Central Mo Info, 07/10/14. McCarthy and other EPA officials present said a pond which included measures to regulate the amount of water allowed to flow downstream would fall under the rule, while a nearby pond and ditches which channel excess rainwater downhill wouldn't. She says the new regulations will provide more definitions on what channels they wouldn't touch, including several ditches:

**[EPA reaches out to farmers about Clean Water Act proposal](#)**, RFD TV, 07/10/14. Environmental Protection Agency Administrator Gina McCarthy says there is too much confusion about the proposal to change the Clean Water Act. McCarthy is meeting with farmers and ranchers across the country in the coming weeks to try to set the record straight.

**[EPA administrator Comments on Clean Water Act's Impact on AG](#)**, Brownfield AgNews, 07/10/14. McCarthy told reporters in a press conference yesterday the Interpretive Rule put forth by the agency was meant to include not only all "normal" farming practices - as before - but also practices supported by the USDA's Natural Resources Conservation Service (NRCS) and to expand the list of practices.

**[McCarthy Trivializing Farmers EPA Concerns](#)**, Dairy Agenda Today, 07/11/14. The Missouri Farm Bureau and Missouri Senator Roy Blunt suggest EPA administrator, Gina McCarthy is trivializing farmers concerns about the EPA. On the Senate floor Wednesday, Blunt said there were no silly questions about

the EPA's overreach.

**EPA Administrator's Remarks to the AgriBusiness Council of Kansas City**, AgriMarketing, 07/11/14.

So let's talk about the interpretive rule and the 56 conservation practices that are good for production and good for water quality. That rule seems to have generated lots of confusion. So, why did we want to list out those 56 practices? Those 56 are an attempt to clear the path for slam dunk conservation practices. We did not narrow exemptions; those 56 are a subset to the existing exemptions for normal farming, ranching, and silviculture. No one should have to think twice about taking advantage of these conservation practices.

**EPA's proposed water rules concern local farmers**, Sikeston (MO) Standard-Democrat, 07/10/14.

Bennett said new rules are coming as an interpretation of the Clean Water Act rather than legislation from Congress and that the President is "attempting through executive fiat to claim that all standing water in the United States falls under EPA guidelines."

**EPA promotes water rule to farmers**, High Plains Public Radio, 07/10/14. In Missouri Wednesday, EPA Administrator Gina McCarthy sought to battle back against a barrage of opposition from many of the most powerful farm groups, including the [American Farm Bureau](#) and the [National Cattlemen's Beef Association](#).

-  
**Opinion**

-  
**April showers bring May flowers – and vernal pools**, American Rivers blog, 07/10/14. The proposed Clean Water Rule acknowledges these connections and sets up a process where similar "other waters" that lie outside of the floodplain can be protected under the Clean Water Act. These waters collectively with other similar waters must demonstrate a significant connection to downstream waters, meaning that those waters have a more than speculative impact on the chemical, physical, and biological integrity of downstream protected waters.

**The joy of clean water**, New Bedford (MA) Standard Times, (letter to the editor), 07/11/14. Lori Talbot: We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to 2 million miles of streams — waters that provide drinking water to 117 million Americans and vital habitat for wildlife. Lori Talbot lives in Fall River, MA.

**Clear rules for clean water and air**, Sarasota (FL) Herald Tribune, 07/11/14. Lawmakers, mostly but not only Republicans, are seeking to undermine the twin foundations of Environmental Protection Agency authority: the Clean Air Act and the Clean Water Act. In both cases, Congress should back off. (Reprinted from the Washington Post editorial of 07/10/14.)

**Water quality and veterans' care questioned**, The (McAllen, TX) Monitor, (letter to the editor), 07/11/14. Melissa Ruiz: The proposal will restore federal protections to 2 million miles of streams — which provide drinking water to 117 million Americans and vital habitat for wildlife. Like just about everything else these days, the proposal has generated some controversy in the halls of Congress. But many of those making wild claims about the rule may not have read the proposal or understand its sweeping exemptions for the agricultural community. Melissa Ruiz lives in Mission, TX.

## **Blogs/Social Media**

**Farm Bureau releases new Ditch the Rule video**, Idaho Farm Bureau blog, 07/10/14. The Environmental Protection Agency's proposed "clarification" to the 1972 Clean Water Act continues to receive a chilly reception from farmers and legislators.

## **Congressman Kurt Schrader Rips EPA Water Rule**

<https://www.youtube.com/watch?v=LTkIWpDr7N4>

## **Environment Oregon**

<https://www.youtube.com/watch?v=C7WiMoHW-iU>

## **Rep. Scott Peters (D-CA) - Questions to the Witness Panel 7/9/2014**

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Rep. Scott Peters (D-CA) poses questions to the witness panel at the full committee hearing titled, "Navigating the **Clean Water** ...



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Proposed **Clean Water Act** reg 'has fallen totally flat on its face' --EPA admin, earlier today [\\_eenews.net/eenewspm/2014/... \(\\$\)](#) [@AnnElizabeth18](#)



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# McCarthy Suggests Dropping Controversial CWA Permit Waivers For Farms

Posted: July 10, 2014

Facing mounting criticism from many quarters, EPA Administrator Gina McCarthy says the agency is open to dropping the administration's controversial interpretive rule that seeks to exempt dozens of agricultural practices from Clean Water Act (CWA) dredge-and-fill permit requirements and is working with critics on an alternative approach.

"Is the interpretive rule the best way to do that? Let's figure that out together," she told the Agricultural Business Council of Kansas City, MO, in a highly touted [July 10 speech](#). "I am about outcomes, not process," she said.

McCarthy's comments appear to go beyond remarks she made July 8 previewing her speech, which focused heavily on the administration's related proposed rule clarifying the reach of the CWA, though she acknowledged ["legitimate" concerns](#) with the interpretive rule.

For example, she noted during the July 8 remarks that the rule could actually narrow exemptions for "normal farming, ranching, and silviculture activities" because it requires compliance with Natural Resources Conservation Service (NRCS) standards. The intent of the interpretive rule was not to "shrink farm exemptions, but to expand them," McCarthy said.

It is unclear what options EPA has in the way of an alternative to clarify the conservation practice exemptions. But one state source says that while they generally support the agency's intent to provide clarity, they agree that EPA should withdraw the interpretive rule until after EPA issues its final jurisdiction rule to ensure there is greater clarity on which waters are jurisdictional before giving new exemptions.

"It's complicated and there are a lot of questions," that source adds, saying more discussions may be needed to flesh out approaches that could work better, and that EPA and the Corps should consider a notice-and-comment rulemaking on the issue after finalizing the CWA jurisdiction rule.

The interpretive rule, which took effect March 25, exempts 56 recognized agricultural conservation activities -- such as brush management, herbaceous weed control, and fencing in crops -- from section 404 permit requirements by specifying that they are "normal farming" measures that are exempt from dredge-and-fill permits.

Under the CWA, section 404 permits are issued by the Army Corps of Engineers for so-called dredge-and-fill activities that occur in jurisdictional waterbodies, though EPA has some oversight and the permits often become the target of CWA citizen suits.

The permit exemption means that section 404 dredge-and-fill permits would not be needed for those conservation practices, nor would farmers and producers be required to obtain a determination of whether the practices occur in jurisdictional waters or to seek site-specific pre-approval from the Corps or EPA.

The interpretive rule, issued alongside the administration's pending plan for clarifying the reach of the CWA over smaller waters, was intended to ease industry concerns that the jurisdiction rule could subject some farming practices to permit requirements.

## Widespread Concern

But the measure had drawn widespread concerns from traditional critics, including industry and GOP officials, who fear it will unintentionally create new [enforcement opportunities](#) for both federal officials and environmentalists -- a concern that some administration officials have acknowledged -- because it still requires compliance with NRCS technical standards.



Federal environmental officials, including officials at the Department of the Interior (DOI), are also increasingly raising concerns that the measure could create uncertainty about other regulatory requirements -- such as endangered species assessments -- for the practices.

McCarthy told the Missouri audience that the agency's intent in issuing the interpretive waiver is to ensure the conservation practices are exempt without farmers having to seek specific federal approval. "We added 56 exemptions because we want to boost conservation without boosting bureaucracy," McCarthy said. But she signaled that EPA is willing to consider alternative approaches, and may be considering pulling the final rule.

One group, the National Association of Conservation Districts, has already suggested an alternative that the agencies could craft a CWA general permit to cover agriculture conservation practices without farmers needing to seek specific approval from the Corps.

Such an approach, the comments say, would "acknowledge the benefits of conservation practices and take a less complicated approach to exempting conservation work from 404 permits, which also reinforces that the role of NRCS cannot be regulatory."

Meanwhile, federal wildlife authorities are also airing concerns over the interpretive rule's possible Endangered Species Act (ESA) implications. In [June 5 comments](#), Michael Tehan, assistant regional administrator for the Interior Columbia Basin Area Office of the National Marine Fisheries Service (NMFS) says that while the exempted practices are intended to improve water quality and could provide net benefits to fish habitat, the service has "strong concerns that the lack of oversight for the implementation of certain agricultural practices will result in degraded habitat for ESA-listed fish species" including salmon and steelhead in the Pacific Northwest.

Under section 7 of the ESA, the Corps or EPA generally consults with the wildlife services before deciding whether to issue a CWA 404 permit to ensure ESA-listed species or critical habitat would not be adversely affected by the permitted activity. But NMFS warns that the interpretive rule would shift that review to the agriculture producer, rendering them liable for any species impacts and eliminates any oversight by wildlife agencies prior to the activity commencing.

"This leaves the agricultural producer without the protections provided by EPA take coverage unless they obtain a permit provided through an ESA Section 10 Habitat Conservation Plan -- a slower and more costly process than Section 7," the comments say.

And the Department of Interior (DOI), which houses Fish & Wildlife Service (FWS), raises similar concerns, saying in [June 4 comments](#) signed by DOI Office of Environmental Policy and Compliance Director Willie Taylor that while the interpretive rule appears to have little adverse impacts to wetlands, some of the exempt practices could have a "substantial adverse effect on trust resources (e.g. threatened or endangered species or their critical habitat.)

DOI urges EPA, the Corps, and NRCS to establish state technical committees to evaluate the potential impacts and undertake any necessary section 7 consultations, as well as conduct annual reviews on a state level for the next five years to monitor implementation of the rulemaking.

Additionally, DOI requests that FWS be given the opportunity to participate in review of implementation of the rule, the use or modification of the NRCS practices, and outreach efforts to "better understand how the Interpretative Rule could affect fish and wildlife resources, especially federal trust species, and how it could apply when the Service is providing financial and technical assistance to agricultural producers for habitat restoration using the conservation practices."

DOI also includes in its comments a list of possible natural resources impacts stemming from the exempt conservation practices. For example, brush management could have "potential direct impacts to protected species or to woody vegetation that might support protected species, and conservation cover could have adverse impacts if "unsuitable species are planted," the list says. -- *Bridget DiCosmo* ([bdicosmo@iwppnews.com](mailto:bdicosmo@iwppnews.com)) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )

## **WATER POLICY:**

### **Lawmakers roast EPA's second-in-command over rulemaking**

U.S. EPA Deputy Administrator Bob Perciasepe faced deep skepticism from House lawmakers yesterday over the agency's proposal to clarify the Clean Water Act's reach.

EPA has been aggressive in answering critics of the proposal. Administrator Gina McCarthy, for example, has been in Missouri trying to appease farmers ([E&ENews PM](#), July 9). But the effort is not gaining much traction among congressional Republicans.

"The EPA is on a regulation rampage and this regulation proves it," House Science, Space and Technology Chairman Lamar Smith (R-Texas) said during a hearing yesterday.

Rep. Suzanne Bonamici (D-Ore.) was less critical but said some constituents indeed had concerns about the rule. She welcomed the hearing as a way to help address the "misinformation that has been circulating about the proposal."

That's exactly what EPA's deputy chief said he was hoping to do. "Some of the misinformation is something we have to cut through," Perciasepe said.

Some critics, he said, have asked whether EPA was going to require permits for cows crossing streams, or protect dry washes and floodplains. "I can say categorically that none of those statements are true," Perciasepe said.

Perciasepe said EPA's rulemaking would actually reduce the scope of waters protected under the Clean Water Act and would not assert jurisdiction over waters not currently under federal protection.

But Smith pointed to a map of perennial and intermittent streams, hoping to show the dramatic potential impact of the rule. He asked, "To the extent that the water traverses the land, then that land itself would be impacted by the regulation, would they not?"

Perciasepe said, "The water, the water tributaries, the bodies of waters that are in those areas would be subject to regulation if you discharge pollution into them," not the land itself.

Smith continued, "Suppose we are not talking about pollutants, suppose we are just talking about rain runoff or that drizzle that's in your report."

Perciasepe responded, "The stream would be covered, not the land area. You would not be able to discharge into streams, including streams that are intermittent."

Referring to Smith's map, he added, "I want to be really clear here, all that red area is not going to be regulated by the Clean Water Act. It would only be the tributaries that are in those areas. I don't know what else to say about that."

### **'Fundamental disagreement'**

Rep. Chris Collins (R-N.Y.) demanded EPA withdraw the rule. "What you've shown is a disregard for listening. You don't listen," Collins said. "Congress doesn't trust you, the Farm Bureau doesn't trust you, counties don't trust you, the public doesn't trust you."

Collins added, "When you say that these puddles and streams aren't regulated and you put in your blog they're not regulated, but it's not clear. So I don't understand why [you don't] withdraw the rule."

Perciasepe responded, "There's a difference between making it clearer because others are trying to make it unclear and whether we believe the rule we proposed does what I say. Because I believe it does."



Because Perciasepe agreed that every drop of rainwater could eventually end up in a regulated body of water, Rep. Paul Broun (R-Ga.) said, "You're going to control every piece of land and every landowner."

Perciasepe pleaded for more time to respond, saying, "But those are not jurisdictional. The backyard water is not jurisdictional. Mr. Chairman, can I please ...?"

The chairman moved on, saying Perciasepe could address the issue again later in the hearing.

GOP lawmakers pressed EPA to release more analysis for public comment and maps showing the impact of the proposed rule on waterways and wetlands.

Smith and other lawmakers also questioned Perciasepe on EPA proposing the Clean Water Act rule before the completion of a study meant to justify the measure, which is under review by the EPA Science Advisory Board.

Even though EPA has promised not to finalize the rule until after the report is done, Smith and other lawmakers blasted Perciasepe for preventing direct communication between committee lawmakers and the SAB.

Smith said, "We don't have to get the EPA's permission for the Science Advisory Board to give us answers to our questions." He asked, "Why did the EPA intercept our questions?"

Perciasepe said the agency had passed along the panel's questions but said members are treated like "special federal employees." He added, "We feel that there needs to be a process."

Smith replied, "We have a complete and fundamental disagreement on that. I think it was totally inappropriate for the EPA to intercept the questions."

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Thursday, July 10, 2014 10:19 AM  
**To:** Waage, Melissa  
**Subject:** 071014 Clean Water Protection Rule Media Report - 43 items including spending bill riders in The Hill, CQ, Politico and You Tube hits on WOTUS hearing...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 10, 2014

### News Coverage

**On Tap Thursday**, The Hill/ Overnight Energy & Environment, 07/09/14. The House is expected to vote on final passage of its 2015 appropriations bill for the Energy Department and Army Corps of Engineers. The spending bill contains a number of controversial riders that prohibit the Army Corps from working on a number of administration rules, which seek to regulate mining waste, and protect wetlands and streams. The White House issued a veto threat on the bill Wednesday.

**Today in the House**, Congressional Quarterly, 07/10/14. Convenes at 10 a.m. and begins consideration at noon of rules for floor debate on a fiscal 2015 Financial Services spending bill ([HR 5016](#)) and for legislation ([HR 4718](#)) that would make permanent 50 percent bonus depreciation. The chamber will then finish debate on its fiscal 2015 Energy-Water spending bill ([HR 4923](#)), voting on amendments and passage of the measure. First votes are expected between 2:30 and 3:30 p.m., with last votes anticipated late this evening.

**House Energy-Water Bill Faces Veto Threat**, Congressional Quarterly, (see below), 07/10/14. The White House threatened Wednesday to veto the House Energy-Water spending bill, objecting to restrictions on cooperation with Russia and funding for renewable energy programs, as well as environmental policy riders.

**House spending bill seeks to block EPA climate rules**, Politico, 07/09/10. Unsurprisingly, the House's 2015 Interior-EPA spending bill includes a provision blocking EPA's new climate rules and other regulations. The \$30.2 billion bill includes \$7.5 billion for EPA, a 9 percent cut over 2014 enacted levels, according to the Appropriations Committee. Besides cutting funds for agency leadership and holding staff at its lowest level since 1989, the bill also includes provisions prohibiting funds from going toward enforcing greenhouse gas emissions rules or EPA's recently proposed "Waters of the U.S." rule on Clean Water Act jurisdiction. It's not clear whether such language could make it out of Congress, and Senate Majority Leader Harry Reid said yesterday that he would fight to block any such anti-EPA provisions.

**House Republicans to EPA: "We'll take your money and give it to fires!"** Grist, 07/09/14. The [budget bill](#) would also stop the EPA from [clarifying the scope of the Clean Water Act](#), which the agency wants to do so it can regulate wetlands and streams that feed into larger and more dramatic bodies of water. Critics of this EPA proposal say it's a power grab that could drown regular folk in red tape.

**Rep. Graves files bill to stop all EPA regulations**, The Hill, 07/09/14. Rep. Sam Graves (R-Mo.) introduced a bill Wednesday that would stop every regulation the Environmental Protection Agency (EPA) is currently developing and require a review of all existing rules. Graves, chairman of the Small Business Committee, used EPA head Gina McCarthy's [visit](#) this week to his northern Missouri district to highlight the "Waters of the United States" rule, a proposal to redefine the federal government's jurisdiction over lakes and streams under the Clean Water Act. McCarthy is meeting with farmers to promote the rule and allay their fears about it.

**GOP Congressman Wants To Halt Every Single New Environmental Regulation**, Huffington Post, 07/09/14. One member of Congress is so angry at the Environmental Protection Agency that he introduced a bill Wednesday [that would prevent it](#) from working on any new regulations until it conducts an extensive review of every single existing rule, The Hill is reporting. Rep. Sam Graves (R-Mo.) has introduced the "Stop the EPA Act," which would halt every existing rule until the review is complete, and require any existing or future rule with an economic impact of more than \$50 million to be reviewed and approved by Congress.

**WV Rep. Nick Rahall on funding bill: This bill is a wrench in the gears of EPA's machine**, (Charleston, WV) State Journal, 07/09/14. The bill would prevent EPA from finalizing a new rule to redefine "waters of the United States" (WOTUS), expanding the places subject to Clean Water Act permitting.

**GOP: EPA water rule could harm farmers**, The Hill, 07/09/14. House Republicans clashed with Environmental Protection Agency (EPA) officials Wednesday over the agency's controversial plan to regulate small bodies of water, which the GOP says could hurt American farmers. Republicans fear the EPA's proposed Waters of the U.S. rule would [expand the agency's authority](#) to include small rivers, streams and ponds around the country, which they say could hurt farmers whose lands are strategically surrounded by water.

**Obama's EPA chief calls farm bureau worries hogwash**, Springfield (MO) News-Leader, 07/09/14. Sen. Roy Blunt, R-Mo., said he hopes McCarthy "spends at least as much time listening as she does talking" during her Missouri stops. "If she does that, I think she'll find there are real concerns about the rule," Blunt said, adding that it will have a "dramatic impact on the economy and job opportunities" in the state.

**EPA rebuts complaints about proposed water rule**, Poughkeepsie (NY) Journal, 07/09/14. Organizations ranging from the New York Farm Bureau to the National Association of Counties have asked the Environmental Protection Agency to change a proposed rule that's ironically meant to clarify the limits of the Clean Water Act. The rule under debate is called "Waters of the United States." It was

released in March as an attempt to clarify the geographic scope — and limits — of the federal Clean Water Act in regulating the discharge of pollutants into navigable waters and their sources.

**EPA chief reaches out to farmers on muddled rule proposal**, E & E News, (see below), 07/09/14.

Administrator Gina McCarthy said on a call with reporters yesterday that the interpretive rule was intended to clarify which farming practices fall under the 1972 water law's exemptions for normal farming practices "so that there's no need for us to have ongoing dialogue about what's normal and what isn't."

**EPA sets out to explain water rule that's riles U.S. farm interest**, McClatchy Washington, 7/09/14. A proposal that federal officials said was intended to simplify federal water laws has instead been interpreted to do the opposite – and the U.S. Environmental Protection Agency is scrambling to defend itself to agriculture and other industries. (This article also appeared in The Sacramento Bee, Fort Worth Star Telegram, Charlotte (NC) Observer, Klamath Falls (OR) Herald and News, and St. Louis Post-Dispatch.)

**Farmers Question Possible EPA Regulation**, KATC-TV/Lafayette, LA, 07/10/14. Farming is a close to \$12 billion industry in the State of Louisiana, an industry that could see a flood of new rules and regulations if the EPA has its way. "We already grow the safest, most abundant food source in the entire world, and it seems as though every time we turn around as farmers somebody is trying to pick on us", says Christian Richard, a rice farmer out of Kaplan.

**EPA's proposed changes in water rules rile agriculture interest in Kansas**, Wichita (KS) Eagle, 07/09/14. The backlash from agricultural and rural groups in Kansas and elsewhere in response to proposed changes in federal rules regarding water protection has been strong enough to draw Environmental Protection Agency Administrator Gina McCarthy to the heartland to defend the move.

**Governor Pushes EPA and Army Corps to Withdraw Water Proposal**, Cowboy State (WY) News, 07/09/14. Calling it time consuming and costly, Governor Matt Mead is opposing the interpretive Rule proposed by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps).

**Warren freeholders oppose new EPA water rules**, WFMZ-TV/Allentown, PA, 07/09/14. Warren County's board of Freeholders has approved a resolution opposing new regulations giving the federal government more authority under the Clean Water Act.

**EPA: Assumptions About Clean Water Act Changes are Ludicrous**, AgWeb, 07/09/14. John Barrett is a Texas farmer and environmental steward. He cares for his land so that it's here for generations to come. Now he fears removing the word "navigable" out of the Clean Water Act could prohibit him from doing his job.

**EPA promotes contentious water rule to farmers**, KBLA/Mid Missouri Radio, 07/09/14. The EPA wants to clarify a portion of the Clean Water Act to give the agency more control over millions of acres of wetlands and streams. But many farm groups contend that the rule would allow the agency to dictate how farmers use certain bodies of water on farmland.

**EPA counters complaints about proposed water rule**, Democrat & Chronicle/Rochester, NY, 07/09/14. Organizations ranging from the New York Farm Bureau to the National Association of Counties have asked the Environmental Protection Agency to change a proposed rule that's ironically intended to clarify the limits of the Clean Water Act. "Everyone wants to support clean water, but this rule creates more confusion than it seeks to address," said Brian Namey, spokesman for the National Association of Counties.

**Ag groups oppose interpretive CWA rule**, Cattle Network, 07/09/14. The National Cattlemen's Beef Association, National Corn Growers Association and a coalition of nearly 100 organizations led by the American Farm Bureau Federation and National Pork Producers Council have filed comments recently urging the agencies to withdraw the interpretive rule immediately. By listing 56 specific practices, NCBA's Ashley McDonald says the interpretive rule actually narrows the scope of what is considered normal farming and ranching practices.

## **Opinion**

**Speak up now to keep Montana waters clean**, Billings (MT) Gazette, (op-ed), 07/10/14. Land Tawney: Yet, in Congress this month, some U.S. senators are attempting to block an effort to protect our world-class headwater streams that provide cold clean water for trout and our Prairie Pothole Region that acts as the duck factory for the nation. Not only do our streams and potholes provide outstanding fish and wildlife but they also provide clean water for drinking and agriculture. We need to stop this misguided action. Land Tawney is executive director of Back Country Hunters & Anglers.

**Georgia farmers in limbo over new water rule**, (Columbus, GA) Ledger-Enquirer, (editorial), 07/09/14. But in the case of a new federal water rule the EPA and the U.S. Corps of Engineers introduced this spring, farmers and farm organizations in Georgia (and almost certainly in other states as well) are crying foul ... and they might well have a point. At issue is something called the Interpretive Rule (IR), and its intent was both to improve water quality and to clarify existing permit exemptions as well as create a few new ones. In other words, it was supposed to make environmental bureaucracy easier, rather than harder, for the ag industry to negotiate.

**With confusion over 'Waters of the U.S. rule, EPA tries to set the record straight**, Iowa Farmer Today, (op-ed), 07/09/14. Nancy Stoner: The rule keeps intact all Clean Water Act exemptions and exclusions for agriculture that farmers count on. But, it does more for farmers by actually expanding those exemptions. We worked with NRCS and the Army Corps of Engineers to exempt 56 additional conservation practices. These practices are familiar to many farmers, who know their benefits to business, the land and water resources. Nancy Stoner is EPA acting assistant administrator for water.

## **Blogs/Social Media**

**The Dangerous, Nefarious EPA**, Slate, 07/09/14. The session was supposed to be a chance for committee members to ask about proposed updates on how the EPA implements the Clean Water Act. These updates seek to clarify what waters the EPA and Army Corps of Engineers have jurisdiction over, an issue of much legal contention. Perciasepe's answers make it clear that the proposed rules do not extend beyond what is already in place in current policies, and that the proposed rules merely try to define terms to be more consistent with hydro-sciences.

**The Honorable Robert W. Perciasepe - Witness Testimony 7/9/2014**

<https://www.youtube.com/watch?v=mzP4WfRq808>

**Ranking Member Suzanne Bonamici (D-OR) - Questions to the Witness Panel 7/9/2014**

<https://www.youtube.com/watch?v=piDGTfsxM0o>

**Senator Blunt Blasts EPA Overreach & Proposed Water Rule, 07/09/14**

<https://www.youtube.com/watch?v=nQFREMLCb6w>

**Rep. Robin Kelly (D-IL) - Questions to the Witness Panel 7/9/2014**

<https://www.youtube.com/watch?v=CgDGyuYZYbo>

**Rep. Elizabeth Esty (D-CT) - Questions to the Witness Panel 7/9/2014**

<https://www.youtube.com/watch?v=SHSKXEZjQYE>

**Rep. Donna Edwards (D-MD) - Questions to the Witness Panel 7/9/2014**

<https://www.youtube.com/watch?v=AE4srgF0-yA>

**Congressman Chris Collins Voices His Concerns Over EPA Regulations**

<https://www.youtube.com/watch?v=yIpxqdD-sZw>

**Rep. Massie investigates the Clean Water Act during Science Committee Hearing**

[https://www.youtube.com/watch?v=l\\_ps8hMNSjs](https://www.youtube.com/watch?v=l_ps8hMNSjs)

Bucshon questions EPA Deputy Administrator on Clean Water Act  
<https://www.youtube.com/watch?v=MG8gPzjHBmg>



**Texas Eco News** @TexasEcoNews 16m

#Texas #Environment EPA: Assumptions About **Clean Water Act** Changes Are Ludicrous  
[ift.tt/1qYWWU8](http://ift.tt/1qYWWU8)

### [EPA: Assumptions About Clean Water Act Changes Are Ludicrous - Texas...](#)

[John Barrett is a Texas farmer and environmental steward ... American Farm Bureau recently launched a campaign called "Ditch the \[...\]"](#)



**Tyne Morgan** @Tyne\_Ag 1m

EPA attempts to clear the air by explaining what the proposed **Clean Water Act** changes would really mean: [agweb.com/article/epa\\_as](http://agweb.com/article/epa_as) ...



**AGU Science Policy** @AGUSciPolicy 14h

Navigating the **Clean Water Act**: Is Water Wet? hearing now online [ow.ly/yYbmD](http://ow.ly/yYbmD) Procrastinate in style and learn some [#sciencepolicy](#)



**Newburg Equipment** @NewburgEquip 13m

top: EPA: Assumptions About **Clean Water Act** Changes Are Ludicrous - John Barrett is a Texas farmer... [j.mp/1zqsCE9](http://j.mp/1zqsCE9)



**Appropriations-Dems** @AppropsDems 17h

Also oppose rider increasing health threats from mountaintop mining, preventing clarifying jurisdiction of **Clean Water Act** (2/2)



**Choose Clean Water** @ChooseCleanH2O 19h

"If you fish, there is no law more important than the **Clean Water Act**." @troutunlimited  
[#CleanWaterWednesday](#) [#protectcleanwater](#)...

[Expand](#)



**Craig Pittman** @craigtimes 22h

The @EPA is trying hard to win over Big Ag lobby on its update of **Clean Water Act** [#wetland](#) rules  
[bit.ly/1oGGTXV](#) via @sejorg



**AGU Science Policy** @AGUSciPolicy 13h

Navigating the **Clean Water Act**: Is Water Wet? hearing now online [ow.ly/yYbmD](#) Procrastinate in style and learn some [#sciencepolicy](#)



**NFIB** @NFIB 15h

Get the facts on @EPA's and #USACE's [#CleanWaterAct](#) and how it affects [#smallbiz](#):  
[on.nfib.com/1o6tqLE](#)



**FlyLifeMagazine.com** @FlyLifeMagazine 1h

Conservation: **Clean Water Act** threatened by congressional vote -  
[flylifemagazine.com/conservation-c\\_\\_\\_\\_\\_](#) [pic.twitter.com/bOj7vR6NEp](#)

CQ NEWS  
July 9, 2014 – 12:59 p.m.

## House Energy-Water Bill Faces Veto Threat

By Randy Leonard, CQ Roll Call

The White House threatened Wednesday to veto the House Energy-Water spending bill, objecting to restrictions on cooperation with Russia and funding for renewable energy programs, as well as environmental policy riders.



The \$34 billion fiscal 2015 spending measure ( [HR 4923](#) ), which the House is expected to take up Wednesday, would restrict funding and cooperation with Russia on nonproliferation programs.

“Nonproliferation cooperation with the Russian Federation is in the U.S. national interest and remains an essential element of the global effort to counter the threat of nuclear terrorism,” the administration wrote in a [Statement of Administration Policy](#) . “Critical bilateral nuclear nonproliferation activities are continuing in a number of key areas, such as improving physical protection and reducing insider threats at vulnerable Russian facilities.”

The White House also objected to cuts in the bill to the Energy Department’s energy efficiency and renewable energy program, which it said would be funded at \$546 million below the budget request, and opposed a \$45 million cut to the Advanced Research Projects Agency-Energy.

“The bill significantly underfunds critical investments that develop American energy sources to build a clean and secure energy future, support the emerging clean energy technologies that create high-quality jobs, and enhance the nation’s economic competitiveness,” the administration wrote.

The administration also objected to a requirement in the bill to continue construction of a mixed oxide plutonium processing plant in South Carolina, which it intends to put on hold while searching for cheaper alternatives.

The Senate’s Energy-Water spending bill, which has so far had difficulty getting through the Appropriations Committee, also would require continued construction of the facility.

## **WATER POLICY:**

### **EPA chief reaches out to farmers on muddled rule proposal**

Annie Snider, E&E reporter

Greenwire: Wednesday, July 9, 2014

COLUMBIA, Mo. -- The Obama administration's attempt to assuage farmers' and ranchers' fears about a major Clean Water Act proposal has drawn flak from all corners, forcing the U.S. EPA administrator herself to concede yesterday that there are "legitimate concerns" with the effort.

At issue is the interpretive rule for agriculture that the Obama administration released in March in tandem with a major proposal to increase the number of streams and wetlands that receive automatic Clean Water Act protection following years of regulatory uncertainty.

Administrator Gina McCarthy said on a call with reporters yesterday that the interpretive rule was intended to clarify which farming practices fall under the 1972 water law's exemptions for normal farming practices "so that there's no need for us to have ongoing dialogue about what's normal and what isn't."

But a list of 56 specific conservation practices included in the interpretive rule has sparked much confusion and anger on all sides ([Greenwire](#), April 4).

The list identifies conservation practices that would be exempt if executed to the standards set by the Department of Agriculture's Natural Resources Conservation Service (NRCS). On the list are practices that currently don't require permits as well as those that do.

The list has farmers and others wondering whether Clean Water Act exemptions for normal farming practices are being narrowed. Does it mean, they ask, that EPA permits will be required for some projects -- building fences, for example -- if they aren't done to the NRCS standard?

Some groups contend that the requirement that projects meet NRCS standards would place the USDA agency in a new, regulatory role. That, they say, would fundamentally change the agency's relationship with farmers



and ranchers.

"As a conservation organization promoting voluntary stewardship, we think it is critical that NRCS not act as nor be perceived as remotely regulatory in the agricultural community," Earl Garber, president of the National Association of Conservation Districts, told EPA in his written comments on the rule.

McCarthy said yesterday that EPA was caught off-guard by the confusion.

"We thought we were doing something really good to expand the clarity, to really reward these conservation practices ... and it's been interpreted as a narrowing," she said, adding that "every exemption that was in the prior rule remains here."

But confusion has spurred calls for EPA to withdraw the interpretive rule and have it offered instead as a legislative rule.

Among those making the call are unlikely allies such as the American Farm Bureau Federation, Natural Resources Defense Council, National Pork Producers Council and Association of State Wetland Managers.

Their reasons for calling for a rethink are, of course, different.

A coalition of more than 90 farm organizations blasted the interpretive rule as a part of an effort to greatly expand federal power.

"We read the Interpretive Rule and associated materials to reflect a view of the world where Clean Water Act jurisdiction is greatly expanded and NRCS conservation measures have become a yardstick for measuring the scope of the 404(f) permit exemptions for normal farming, silviculture, or ranching activity," the groups, led by the Farm Bureau and the Pork Producers, wrote.

But environmentalists argue that the exempted conservation practices need to be scrutinized more closely to ensure that they would actually bring an environmental benefit.

"The rule must not exempt activities that Congress did not intend to evade appropriate scrutiny by pollution control officials," wrote Jon Devine, senior attorney for NRDC's water program.

McCarthy said her agency is open to making changes to clarify the rule but said that "silly" concerns being expressed by some in the agricultural community -- for instance, that puddles could be regulated or that permits could be required for moving cattle across a field -- don't belong in the conversation.

## **Facing critics in the heartland -- and on Capitol Hill**

Today, McCarthy kicks off a two-day trip in Missouri to meet with farmers, ranchers and agribusiness leaders in a bid to dispel some of what she describes as "myths" about the rule.

Her morning schedule today features a tour of a corn and soybean farm near Columbia, where she plans to illustrate the actual effects of the regulatory proposal and the interpretive rule.

Whether McCarthy can sway the critics, however, remains to be seen. Already, members of Missouri's agricultural community are expressing frustration that they were not invited to the tour, which is open to the media, and that the round table to which they were invited is closed to the press.

"It's kind of suspicious, isn't it?" said Steve Taylor, president and executive director of the Missouri Agribusiness Association, whose group McCarthy is slated to address tomorrow.

While McCarthy tours Missouri trying to explain the rule, EPA Deputy Administrator Bob Perciasepe was struggling to do the same today on Capitol Hill.

House Science, Space and Technology Committee lawmakers on both sides of the aisle quizzed Perciasepe on the rule's reach.

"The EPA does not provide real clarity on what is and isn't water," said Chairman Lamar Smith (R-Texas).

Perciasepe said the proposal is meant to clarify, not expand jurisdiction.

Smith's response: "Nothing beyond the current regulations? Are you sure about that?"

Perciasepe said, "I am."

But lawmakers, particularly on the Republican side, weren't convinced. Some said they didn't trust EPA to give them accurate information. At least one reiterated calls for the agency to scrap the rule.

*Reporter Manuel Quiñones in Washington contributed.*

## Document 80

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** Infographic/blog/Politico ad  
**Date:** Wednesday, July 09, 2014 3:54:22 PM  
**Attachments:** [DTR\\_Graphic\\_Final.pdf](#)

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Another note for today – sorry for the inbox burden. As you know, we created the attached infographic taking on the Farm Bureau’s claims about the Clean Water Protection Rule head-on.

I wanted you to know that we also pushed it out via my blog ([http://switchboard.nrdc.org/blogs/jdevine/infographic\\_how\\_many\\_myths\\_abo.html](http://switchboard.nrdc.org/blogs/jdevine/infographic_how_many_myths_abo.html)), and by placing it as a full page ad today in Politico. We have also distributed it aggressively on the Hill and via social media.

Best,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 070914 Clean Water Protection Rule Media Report - 37 items including coverage of House actions to stop WOTUS rule, WAPO editorial tells Congress to "back off"..."  
**Date:** Wednesday, July 09, 2014 10:33:27 AM

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FYI

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Wednesday, July 09, 2014 10:18 AM  
**To:** Waage, Melissa  
**Subject:** 070914 Clean Water Protection Rule Media Report - 37 items including coverage of House actions to stop WOTUS rule, WAPO editorial tells Congress to 'back off'...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 9, 2014

### News Coverage

**Environmental concerns at the fore in House**, Congressional Quarterly, (see below), 07/09/14. The House is moving ahead on key appropriations bills today. The Energy and Water spending bill (HR 4923) will head to the floor, while the Appropriations Committee marks up the draft Interior-Environment measure that was unveiled Tuesday. Both bills contain provisions designed to block the Obama administration from moving forward with its proposed rule to define the reach of the Clean Water Act (PL 95-217).

**GOP moves to block carbon rules**, The Hill's Overnight: Energy & Environment, (see below), 07/09/14. Not stopping there, Republicans also want to stop a rule to redefine the EPA's jurisdiction under the Clean Water Act, and bar the agency from revising a 2008 regulation on fill material, which defines the kind of materials mining companies can dump into streams.

**Funding bill would block Obama's climate rules**, The Hill, 07/08/14. House Republicans unveiled a funding bill Tuesday for the Environmental Protection Agency (EPA) that would block proposed rules to limit carbon pollution from power plants and redefine the federal government's jurisdiction over lakes and streams. The Tuesday appropriations bill would also prohibit the EPA from working on the "waters of the United States rule," which aims to redefine the federal government's jurisdiction over bodies of water for

the purposes of the Clean Water Act. Republicans have characterized it as a massive federal land grab.

**Twin showdowns over appropriations politics, transportation insolvency on tap for July**, E & E News, (see below), 07/08/14. While they move to target EPA on the floor, Republicans also plan to mark up their Interior-EPA fiscal 2015 spending blueprint in a House Appropriations Committee subpanel that also promises to target EPA's proposed Clean Water Act rule, coal ash regulations, and other rules long opposed by industry groups. The Natural Resources Defense Council's associate government affairs director, Franz Matzner, pointed to accumulating signs that House Republicans would insist on environmental policy riders as a condition for following the top-line spending numbers that both parties agreed on in December's two-year budget pact.

**House panel unveils rider-laden spending bill for EPA, Interior**, E & E News/Greenwire, (see below), 07/08/14. The House bill unveiled today to fund U.S. EPA and the Interior Department in fiscal 2015 features 35 policy riders, including several aimed at curtailing EPA's plans to regulate carbon dioxide. As widely expected, the measure includes language that would block the administration from finalizing a proposal aimed at clearing up more than a decade's worth of confusion about which streams, creeks and wetlands receive federal protection under the Clean Water Act.

**Barrasso floats amendment to sportsmen's bill blocking CWA rulemaking**, E & E News/Greenwire, (see below), 07/08/14. Barrasso's amendment, one of three he has introduced so far, is identical to legislation he and dozens of Republicans introduced last month. It would prevent U.S. EPA and the Army Corps of Engineers from finalizing the regulatory proposal to increase the number of streams and wetlands that currently receive automatic protection under the Clean Water Act.

**Barrasso pushes amendment to stop EPA water rule**, The Hill, 07/08/14. Sen. John Barrasso (R-Wyo.) is trying to use a bill aimed at preserving federal lands for hunting and fishing as a vehicle to block the Environmental Protection Agency's (EPA) attempt to redefine its jurisdiction over the nation's lakes and rivers.

**McCarthy challenges farm critics over EPA water rule**, Energy Guardian, (see below), 07/09/14. "If cattle cross a stream, that is normal farming practices. All normal farming practices are exempt, period," she said, adding that all of the exemptions in play under the Clean Water Act now are included and actually extended. "Our expanded list of exemptions opens up opportunities, it doesn't restrict them."

**EPA: Farmers Raising 'Legitimate Concerns' on Water Rule**, Congressional Quarterly, (see below), 07/09/14. In response to a question from CQ Roll Call, McCarthy said that was "one of the most legitimate concerns that I'm hearing" about the administration's broad plan to redefine the jurisdiction of the Clean Water Act (PL-95-217). "It is certainly a concern we didn't anticipate."

**McCarthy Vows to Address Farmers' 'Legitimate Concerns' Over CWA Plan**, Inside EPA, (see below), 07/08/14. EPA Administrator Gina McCarthy is acknowledging what she says are "legitimate" concerns that the agriculture sector is raising over the administration's proposed plan to clarify the scope of Clean Water Act (CWA) jurisdiction, saying the agency will work to address fears that portions of the plan will unintentionally narrow some permit waivers. "We've already heard some legitimate concerns and we will respond to those," McCarthy said.

- **As farm interests line up against water regs, EPA officials begin the hard sell**, McClatchy Washington Bureau, 07/08/14. EPA officials begin the hard sell, 07/08/14. The EPA is pushing back against the push-back, saying the proposed rule doesn't come close to doing what its opponents allege. The EPA said the rule is designed to clarify and formalize which bodies of water are covered by the Clean Water Act, which has morphed over the years because of decisions by the U.S. Supreme Court. (This story also appeared in The (SC) State and Charlotte (NC) Observer.)

- **Ag groups Take Issue with Interpretive rule**, AgWired, 07/09/14. EPA Administrator Gina McCarthy's promise that under the proposed rules defining Waters of the United States (WOTUS) under the Clean Water Act (CWA) "all normal farming practices are exempt – period" may be falling on deaf ears in the agriculture community.

**EPA Chief Dispels Rule Myths**, WNAX Radio/Yankton, SD, 07/09/14. McCarthy says it's also important to know EPA is not narrowing the definition of normal farming practices which are exempt from the Clean Water Act but adding to them with 56 practices listed with NRCS.

**EPA promoting water rule to farmers in Missouri**, The Hill, 07/08/14. The Environmental Protection Agency's (EPA) chief is traveling to Missouri this week to promote among farmers the agency's proposal to redefine its jurisdiction under the Clean Water Act. The agency has faced some of the harshest backlash to the rule from agricultural representatives, who say that farmers will either have to obtain permits or be outright banned from common farming practices like digging ditches or building fences.

**Georgia agriculture leaders blast new federal water rule**, Atlanta Business Chronicle, 07/08/14. In letters to the EPA and Corps of Engineers, [Gary Black](#), commissioner of the Georgia Department of Agriculture, and [Zippy Duvall](#), president of the Georgia Farm Bureau, both urge the agencies to withdraw the rule. The rule "has created a whirlwind of confusion in the past few months," Black said. "Contrary to its intent, this new rule caught our farmers by surprise as they began their most time-intensive and arduous part of the year."

**Farmers fear EPA intrusion**, Zanesville (OH) Times-Recorder, 07/08/14. Ohio farmers are sounding alarm bells about the potential influence of a new federal rule that's aimed at clarifying the Environmental Protection Agency's authority to regulate streams, wetlands and other waters. The EPA says the draft rule will not interfere with farming, ranching or other agriculture practices.

**County worried proposed federal water regulations could overburden farmers**, Winona (MN) Daily News, 07/09/14. The Winona County Board of Commissioners is not on board with the Environmental Protection Agency's proposed new definition of water under the Clean Water Act. Winona County Farm Bureau President Glen Groth also voiced his opposition to the board Tuesday prior to the vote. He said he's concerned the new definition would mean farmers and others would need to get a permit for everyday activities if a section of their land, for example, occasionally drains rainwater.

**NCBA Wants Interpretive Rule Discarded**, WNAX/Yankton, SD, 07/09/14. The national Cattlemen's Beef Association has filed comments on EPA's interpretive rule regarding the Clean Water Act. They've asked the agency to throw it out.

**EPA waters redefinition causes uncertainty at Wyoming agencies**, Ravalli (MT) Republic, 07/08/14. The new rule is aimed at ending that confusion and clarifying protection measures for small streams and wetlands, but people opposed to the change say it's an EPA plan to take control of more surface water. "They're making a very honest effort to modify the definition of waters of the United States to comply with the Supreme Court decisions," said Wyoming Outdoor Council chief legal counsel Bruce Pendery.

**NCBA Comments on Interpretive Rule-Saying EPA Wants NRCS to Become the 'Water Police.'** Oklahoma Farm Report/Radio Oklahoma Network, 07/08/14. The National Cattlemen's Beef Association and the Public Lands Council filed comments on the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers' "interpretive" rule. The rule will make the Natural Resource Conservation Service a regulatory compliance agency, resulting in cattle producers putting less conservation on the ground.

**EPA Administrator Says "Ditch the Myths" on Proposed Clean Water Rule**, Agriculture, 07/08/14. EPA administrator Gina McCarthy said today that her department is making a concerted effort to reach out to farmers to correct "a growing list of myths floating around" regarding the proposed Waters of the U.S. rule to the Clean Water Act. "We want to sit down and have a frank conversation with farmers to make sure that their interests and concerns are reflected in the work we do," she said in a press call earlier today. McCarthy is continuing this outreach with a visit to the Rocheport, Missouri, farm of Bill and Judy Heffernan on Wednesday.

**EPA chief visiting state to dispel water rule "myths."** Springfield (MO) News-Leader, 07/08/14. In a conference call with reporters on Tuesday, EPA Administrator McCarthy acknowledged that the rule has

sparked strong opposition among some farmers and agriculture groups who worry the proposal gives the EPA the power to regulate ditches, streams, and other water on their land.

**EPA Administrator Discusses Waters of the U.S.**, Southeast Agnet, 07/08/14. he proposed rule, which is designed to clarify and protect our nation's waters under the Clean Water Act, has been questioned by many in agriculture. She explains in her talk why they are moving forward with the rule.

**EPA's McCarthy on "misunderstandings,"** Brownfield Ag News, 07/08/14. McCarthy tells reporters the Interpretive Rule put forth by the agency was meant to include not only all "normal" farming practices – as before – but also practices supported by the USDA's Natural Resources Conservation Service (NRCS) and to expand the list of practices. She says it was NOT meant to put the NRCS in a position of regulating, adding, "It's been interpreted as a narrowing.

**Proposed EPA water rule lights up Capitol Hill fireworks,** Washington Examiner, 07/08/14. The proposed rule would state that the EPA has jurisdiction over water that connects to navigable waters: Think a wetland connected to a stream. But the push has ginned up Capitol Hill debate from the Right, which sees it as a massive EPA land grab -- 10 Republican senators even claimed in a [letter](#) last week that it could threaten future fireworks shows by encouraging civil lawsuits over water pollution caused by the used fireworks.

## **Opinion**

**The Environmental Protection Agency is swimming in murky water,** Washington Post, (editorial), 07/08/14. Lawmakers, [mostly but not only Republicans](#), are seeking to undermine the twin foundations of Environmental Protection Agency authority: the [Clean Air Act](#) and the [Clean Water Act](#) . In both cases, Congress should back off.

**A vote for clean water,** Northwest Florida Daily News, (letter to the editor), 07/08/14. Heather Whitley: This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams — waters that provide drinking water to 117 million Americans and vital habitat for wildlife. Heather Whitley lives in Crestview, FL.

**Letters to the Editor: Good Clean Water,** Weatherford (TX) Democrat, (letter to the editor), 07/08/14. Molly Ancona: This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. Molly Ancona lives in Dallas, TX.

**EPA proposal hurts farmers,** York (PA) Dispatch, (op-ed), 07/08/14. Carl Shaffer: Unfortunately, what the EPA is saying publicly and what is actually written in the proposed rules are quite different. The proposal calls for expanded federal authority to regulate land use activities around small creeks and streams, and even pathways and ditches that carry water only during rain events. The real impact will be restricting what farmers, and even homeowners, can do with their land. Carl Shaffer is president of the Pennsylvania Farm Bureau. (This op-ed also appeared in the Reading (PA) Eagle.)

## **Blogs/Social Media**

**Regulatory Issues – EPA, Clean Water Act,** FarmPolicy.com, 07/09/14. DTN writer [Todd Neeley](#) reported yesterday that, "If nothing else, EPA Administrator Gina McCarthy hopes a trip to Missouri this week to talk to farmers and agribusiness representatives will help to dispel what she said are 'myths' about the agency's proposed Clean Water Act rule.

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An interpretive rule that accompanies a proposed **Clean Water Act** regulation is legislative rule that must go thru no [agprofessional.com/news/Groups-wa](http://agprofessional.com/news/Groups-wa)....

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**Steve Fought** [@stevenfought](#) 17m

[@neorsd](#) McCarthy pushes back against critics of the **Clean Water Act** authority. [us-mg4.mail.yahoo.com/neo/launch?.ra](http://us-mg4.mail.yahoo.com/neo/launch?.ra)....



越觅越开心 [@wonderchul](#) 33m

House Science Committee holds a hearing: "Navigating the **Clean Water Act**: Is Water Wet?" THIS IS NOT A JOKE. [science.house.gov/hearing/full-c](http://science.house.gov/hearing/full-c)....

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**Tony Schick** [@tonyvschick](#) 13h

Farmers Urge EPA To 'Ditch' Proposed **Clean Water Act** Revisions [fw.to/gqNtXCU](http://fw.to/gqNtXCU)



**NFIB** [@NFIB](#) 6h

[@NFIB](#) Asks Congress to Stop Federal Overreach of [@EPA](#)'s [#CleanWaterAct](#) and "jurisdiction over every drop of water." [on.nfib.com/U1bKmY](http://on.nfib.com/U1bKmY)



**For Effective Gov** [@ForEffectiveGov](#) 7h

Lack of clarity on jurisdiction of the **Clean Water Act** has prevented the protection of numerous



bodies of water.

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**Corey O'Connor** @CoreyOConnor2 7h

Glad to co-sponsor w/ [@danielgilman](#) a Will of Council supporting the **Clean Water Act**.

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CQ NEWS  
July 9, 2014 – 6:00 a.m.

## Environmental Concerns at the Fore in House

By Philip Brasher, CQ Roll Call

The House is moving ahead on key appropriations bills today. The Energy and Water spending bill ( [HR 4923](#) ) will head to the floor, while the Appropriations Committee marks up the draft Interior-Environment measure that was unveiled Tuesday. Both bills contain provisions designed to block the Obama administration from moving forward with its proposed rule to define the reach of the Clean Water Act ( [PL 95-217](#) ). Interior-Environment is always one of the most contentious spending bills but both measures should find wide support in the House.

EPA's deputy administrator, Bob Perciasepe, will be on the hot seat again today as the House Science, Space and Technology Committee becomes the latest panel to use a hearing to whack at the CWA rule. He's the lone witness at the [hearing](#) and is also scheduled to speak to the American Soybean Association today. EPA Administrator Gina McCarthy acknowledged Tuesday that farm groups had what she called "legitimate concerns" about a related interpretive rule that spells out 56 farming practices exempt from permitting requirements in the law's Section 404.

More than 90 national and state farm organizations are [asking the administration](#) to open a comment period on the interpretive rule, which was put into effect at the same time the proposed rule was released. The groups argue that the administration should have followed the normal notice and public comment requirements required for implementing federal regulations.

The letter reflects the success the American Farm Bureau Federation in leading the fight against the administration plan. The Natural Resources Defense Council is fighting back by taking out an [ad](#) today in Politico. The Farm Bureau effort is "fueled in large part by false information about what the proposal actually says, and this misinformation is being repeated and amplified in the news media, usually unchallenged," said NRDC spokeswoman Elizabeth Heyd.

**Lucas Raising Concerns on Farm Bill.** House Agriculture Chairman [Frank D. Lucas](#) , R-Okla., says he let Republican leaders know he's concerned both about what's in the Agriculture spending bill ( [HR 4800](#) ) and what might be added if it's brought back to the floor. "I'm given the impression by leadership that it will come to the floor," he told CQ Roll Call's Ellyn Ferguson. "I have mentioned to various members of leadership that there are some challenging issues in there for a number of my committee members and folks in rural America."

He didn't go into specifics about his concerns. The pending amendments include one by [Ron Kind](#) , D-Wisc., that would public disclosure of subsidies to crop insurance policy holders.

**Quotable:** "There are some legitimate concerns out there, but we're hearing some concerns that are just ludicrous." – EPA Administrator Gina McCarthy on the proposed CWA rule

Georgina Gustin contributed to this report.

## THE HILL'S OVERNIGHT: **ENERGY & ENVIRONMENT**

**GOP MOVES TO BLOCK CARBON RULES:** House Republicans unveiled their proposed 2015 spending bill for the Environmental Protection Agency (EPA) and Interior Department Tuesday, complete with major hits against the Obama administration's top climate priorities.

The bill would prohibit funding for last month's proposed carbon pollution reductions for existing plants. It also seeks to block the EPA's January proposal to set limits on emissions at new plants.

Republican leadership on the House Appropriations Committee said the bill includes provisions to stop various harmful, costly, and potentially job-killing regulations by the EPA."

Not stopping there, Republicans also want to stop a rule to redefine the EPA's jurisdiction under the Clean Water Act, and bar the agency from revising a 2008 regulation on fill material, which defines the kind of materials mining companies can dump into streams.

Another rider would roll back new restrictions on ivory trading. Read more [here](#).

**EPA SPENDING BILL:** A House Appropriations subcommittee [on](#) the EPA and Interior Department will vote on its bill to fund those agencies for fiscal 2015.

It's the same appropriations bill mentioned above, which contains a number of anti-EPA riders, including one to block the administration's carbon pollution standards on existing power plants.

### *Rest of Wednesday's agenda ...*

The House will meet Wednesday to consider its 2015 appropriations bill to [fund](#) the Energy Department and the Army Corps of Engineers' water programs. The Appropriations Committee passed the bill last month on a voice vote with few changes from the original legislation.

A coalition of organizations that advocate for air pollution protection in the name of public health and children's welfare will host a play-in at the Upper Senate Park to [protest](#) air pollution and support the EPA's power plant carbon rules.

The House Science Committee is [holding](#) a hearing on the EPA's proposal to clarify its jurisdiction over the nation's streams and wetlands.

## **Twin showdowns over appropriations politics, transportation insolvency on tap for July**

Elana Schor, E&E reporter

With just four legislative weeks remaining until a month-long recess and election-year pressures mounting as the parties battle for Senate control, Congress is headed for twin showdowns over how to shore up the nation's cash-poor transportation trust fund and whether the GOP can force the Obama administration into swallowing environmental policy restrictions in exchange for funding the government past September.

Summertime brinksmanship is hardly a new trend on Capitol Hill, where three and a half years of divided government has seen Senate Democrats and House Republicans tussle over a litany of administration priorities.

But the current mismatch between the dwindling number of days for lawmakers to reach agreement and the intensity of the political conflict before them is notable for its double feature of energy-related flashpoints: Both the highway trust fund and the GOP's urge to derail U.S. EPA regulations are poised to fuel major partisan battles throughout July and potentially until the chambers can adjourn for pre-election campaigning.

House Republicans will issue the next volley in the bicameral appropriations wars this week as they prepare to pass a \$34 billion bill funding the Energy Department and the Army Corps of Engineers in fiscal 2015. That measure is seen as a likely vehicle for amendment votes blocking EPA's proposed emissions limits for power plants, an issue that migrated from the contentious Interior Department and EPA appropriations bill in the Senate last month only to draw Democratic ire, a White House veto threat and a canceled markup of the upper chamber's version of the legislation ([Greenwire](#), June 19).

While they move to target EPA on the floor, Republicans also plan to mark up their Interior-EPA fiscal 2015 spending blueprint in a House Appropriations Committee subpanel that also promises to target EPA's proposed Clean Water Act rule, coal ash regulations, and other rules long opposed by industry groups ([see related story](#)).

The Natural Resources Defense Council's associate government affairs director, Franz Matzner, pointed to accumulating signs that House Republicans would insist on environmental policy riders as a condition for following the top-line spending numbers that both parties agreed on in December's two-year budget pact ([E&E Daily](#), June 20).

"We are really at a risk of having another CR [continuing resolution] and a standoff in September about how to fund the government," Matzner said in an interview. "It's shocking to me -- and I'm not easily shocked -- that after taking the country to the brink of serious economic disruption once, Republicans are starting down that path again."

Potentially complicating this summer's appropriations politics is the ascension of House Majority Leader-elect Kevin McCarthy (R-Calif.), who has shifted subtly to the right since winning his conference's nod to replace Rep. Eric Cantor (R-Va.), who was defeated in his congressional primary, in the leadership position. In addition to opposing further reauthorization of the Export-Import Bank, a conservative target that could survive into fiscal 2015 only if coal-fired utility backers win expanded financing language, McCarthy also came out against the extension of the production tax credit for renewable energy after previously advocating for it ([Greenwire](#), June 13).

Should House conservatives move as a bloc to push for environmental policy riders as fiscal 2015 spending negotiations intensify this summer, McCarthy and new Majority Whip Steve Scalise (R-La.) could feel pressure to insist on blocking EPA at some level before next year's spending plan is locked in.

## Highway funding in limbo

McCarthy is also facing resistance from outside conservative groups to the Transportation Department's warning that it would have to trim and postpone road payments to states starting next month unless Congress acts to patch a hole estimated at \$8 billion through December.

Heritage Action for America, an influential player on the GOP's right flank, is raising its voice to criticize lawmakers working to shore up the trust fund as focused on "an artificial crisis" designed to help push through tax increases ([Greenwire](#), July 7).

A spokeswoman for House Ways and Means Chairman Dave Camp (R-Mich.) sought to lower the temperature of the highway trust fund conflagration yesterday, saying that Camp "remains confident that there are sufficient policies to fund highways that have a history of winning bipartisan votes in both the

House and Senate."

The Michigander "does not believe extraneous issues should come into play, nor does he believe this needs to drag out," spokeswoman Sarah Swineheart said via email. "Congress does not need another showdown when there is a viable solution."

Yet the only apparent Senate vehicle for a deal is the "Preserving America's Transit and Highways (PATH) Act," introduced late last month by Senate Finance Chairman Ron Wyden (D-Ore.) and intended to keep the trust fund solvent through December but still awaiting a markup.

One complication could be some lawmakers' desire to piggyback unrelated provisions onto the legislation, given its "must-pass" status before Congress breaks for the midterm elections. Among 46 filed amendments to the bill, for example, is one by Wyden that would incorporate tax cuts included in a broad "extenders" package -- including the renewable production credit McCarthy opposes.

On a conference call with reporters yesterday, Democratic senators held out hope for an agreement but blamed the GOP for forcing a down-to-the-wire showdown.

"We seem to be reverting once again to the Republican strategy of governing through crisis," Sen. Sheldon Whitehouse of Rhode Island said.

Sen. Charles Schumer of New York, who sits on the Senate Finance Committee, said Wyden and Camp have had "good conversations." While an agreement will entail a compromise between revenue raisers and spending cuts to find the needed budget offsets to pay for a trust fund fix, Schumer described himself as "hopeful."

Lawmakers' deadline, he added, is "a few weeks from now" -- when August looms on the calendar.

*Reporter Sean Reilly contributed.*

## **House panel unveils rider-laden spending bill for EPA, Interior**

Jean Chemnick, E&E reporter/Published: Tuesday, July 8, 2014

The House bill unveiled today to fund U.S. EPA and the Interior Department in fiscal 2015 features 35 policy riders, including several aimed at curtailing EPA's plans to regulate carbon dioxide.

The 136-page [draft](#) was released ahead of tomorrow's markup in the Interior and Environment Appropriations Subcommittee, the first leg of an annual appropriations process that is widely expected to end with the enactment of a continuing resolution to fund the federal government past Sept. 30. Senate leaders pulled from the floor an Energy Department spending bill last month in order to avoid a fight over policy amendments, and the upper chamber seems unlikely to hazard a floor vote on Interior and EPA legislation.

But subpanel Chairman Ken Calvert (R-Calif.) defended his chairman's mark and its policy riders, even though past efforts to limit agency activity through riders on spending bills have usually fallen flat.

"This bill also protects Americans from the onslaught of job-killing regulations coming from the EPA and makes difficult decisions to carefully balance national priorities," Calvert said.

The measure also features austere spending levels that fall \$409 million below the Obama administration's budget request for EPA and Interior.

Appropriations Chairman Hal Rogers (R-Ky.) said the \$30.2 billion measure would "ensure the proper management of the nation's vast natural resources, invest in programs for the well-being of our local

communities, and help prevent and fight the wildland fires that cause millions of dollars in damages every year, all while keeping a close eye on the spending of each and every tax dollar."

## **Emissions, water issues**

EPA's proposed -- and hypothetical -- carbon and methane regulations are among the bill's top targets.

The measure would pull the plug on EPA emissions proposals for new, modified and existing power plants and head off regulations to limit CO2 and methane from livestock production, which the agency has not expressed any intention of promulgating. It would also kill EPA's greenhouse gas permitting program and Title V of the Clean Air Act, which the Supreme Court largely upheld last month after the program was challenged by industry.

It would also mandate that the executive branch provide a report to Congress next year on all revenue spent on climate-change-related activities during fiscal 2014 and 2015 and would prohibit EPA from implementing its mandatory greenhouse gas reporting requirements for industry.

As widely expected, the measure includes language that would block the administration from finalizing a proposal aimed at clearing up more than a decade's worth of confusion about which streams, creeks and wetlands receive federal protection under the Clean Water Act.

The administration's "waters of the U.S." proposal, which would increase the number of waters that currently receive automatic protection, has drawn a harsh backlash from industry groups and their allies in Congress. The language to block it in the committee's fiscal 2015 mark mirrors language backed by the House in previous years that has always died in the Senate. But Rogers has argued that, with the water proposal now publicly released, the battle will be different this time around.

Rogers told EPA chief Gina McCarthy in a hearing this spring that the policy change "ain't going to happen," leading many to assume the bill would contain a rider.

The measure would also ratchet down spending for EPA, which was already targeted for cuts under Obama's budget request released in March.

It proposes to fund EPA at \$7.5 billion, a reduction of \$717 million -- or 9 percent -- below the fiscal 2014 enacted level. Funding cuts would come with a requirement that EPA limit staffing to 15,000 employees, the lowest level since 1989.

"These reductions will help the agency streamline operations, and focus its activities on core duties, rather than unnecessary regulatory expansion," an Appropriations Committee summary states.

The panel did not propose to cut the popular Clean Water and Drinking Water state revolving funds as sharply as it did in a fiscal 2014 measure.

The spending levels proposed for fiscal 2015 -- a combined \$1.8 billion -- are on par with the administration's proposal and would be a 23 percent cut below fiscal 2014 enacted levels.

The measure also includes a provision, beefed up from previous years, that would prevent the federal government from making any permit or license approval contingent on the transfer of a water right. There is suspicion throughout the West that, although governing water rights and groundwater is the purview of the states, the federal government uses its permitting authority and power to grant rights of way on its land to edge in on that authority. This fear was stoked by a recent Forest Service directive relating to groundwater protections in federal forests that has drawn the ire of many Western lawmakers ([E&E Daily](#), June 25).

## **Wildfire, Interior programs**

The bill also would provide \$4.1 billion to prevent and combat wildfires, \$149 million above the fiscal 2014 enacted level. The bill would fully fund the 10-year average for wildland fire suppression costs for both the Interior Department and the Forest Service. It also includes an additional \$470 million for the Forest Service to help fill the expected shortfall in fire suppression funding this year and would provide an increase of \$90 million above the current level for hazardous fuels management.

In addition, the bill includes funding for two next-generation aircraft to replace decades-old planes used for large-scale fire suppression.

Overall, the bill includes \$5.6 billion for the Forest Service, \$85.7 million above the fiscal 2014 enacted level.

The bill also includes a one-time payment of \$442 million for "Payments in Lieu of Taxes" (PILT), which provides funds to communities with large areas of federal land to help offset losses in property taxes.

Interior's Bureau of Land Management would see a cut of \$13 million compared with enacted levels, for a total budget of \$1.1 billion. But the measure provides \$20 million more to speed permitting and to increase inspections for oil and gas development on BLM land. The bill also rejects a proposal by the president to increase oil and gas fees by \$48 million.

The National Park Service would see a small increase of \$3 million above the fiscal 2014 enacted level, a funding level the committee says "will ensure that every National Park will remain open and fully operational next year."

The bill also includes a provision prohibiting the Forest Service or BLM from issuing new closures of public lands to hunting and recreational shooting, except in the case of public safety or extreme weather.

The Fish and Wildlife Service would see \$1.4 billion, a cut of \$4 million below the fiscal 2014 enacted level. The legislation prioritizes funding for programs to fight invasive species, prevent illegal wildlife trafficking and stop the closure of fish hatcheries.

The bill includes a one-year delay on any further Endangered Species Act rulemaking for the greater sage grouse and Gunnison sage grouse and prohibits the FWS from administratively establishing new or expanding existing wildlife refuges.

The bill would zero out funding for several programs, including the Fish and Wildlife Service's Landscape Conservation Cooperatives, EPA's U.S.-Mexico border grant program and the Dwight D. Eisenhower Memorial Commission.

## **Coal and mining**

The bill would also put a bull's-eye on EPA's rules for coal mining. One key rider would prevent EPA and the Army Corps of Engineers from changing the definition of fill material. Such a step could curtail coal and hardrock mining activities.

The bill would fund the Office of Surface Mining at \$149 million, about the same as current levels. The new legislation also mirrors the omnibus spending bills lawmakers approved earlier this year by giving OSM \$68 million for state grants to prevent fee increases on industry.

As in previous bills, House appropriators are pushing for a provision to prevent OSM from moving forward with its forthcoming Stream Protection Rule.

Pro-mining appropriators are also backing a rider to prevent EPA from enacting new financial assurance requirements on hardrock mining under the Superfund law. Watchdogs have been pushing the agency for more action on the issue.

A relatively obscure rider involves mine patents. Even though there is a moratorium on the practice, which



allows mineral claimants to patent public land, the bill would allow holders to hire contractors to expedite mineral examinations.

Holders say the provision is necessary because BLM resources to deal with mineral patents have been dwindling as a result of the long-standing moratorium.

One potential rider not in the current legislation is one to limit EPA's Clean Water Act veto power over certain permits. House lawmakers are pushing stand-alone bills on the issue.

Rep. David McKinley (R-W.Va.) pushed for a provision to prevent EPA from regulating coal ash as hazardous. While not in the bill, a McKinley spokesman said the West Virginia Republican would keep working for inclusion.

The bill seeks to protect the agricultural sector from being targeted by environmentalists by including a rider prohibiting EPA from publicly disclosing personal information about livestock operators, including names, physical addresses and geographic coordinates.

The provision is in response to the agency's release last year of hundreds of pages of data on operations to environmental groups in response to a Freedom of Information Act request ([Greenwire](#), May 3, 2013). Farm-state lawmakers have unsuccessfully tried to add similar provisions to other pieces of legislation.

*Reporters Manuel Quiñones, Annie Snider and Amanda Peterka contributed.*

## **Barrasso floats amendment to sportsmen's bill blocking CWA rulemaking**

Manuel Quiñones and Emily Yehle, E&E reporters

Sen. John Barrasso (R-Wyo.) is pushing for an amendment to the sportsmen's legislative package on the Senate floor today to block the Obama administration's Clean Water Act rulemaking.

Even though the sportsmen's bill has wide bipartisan support, its future remains unclear amid numerous expected amendments. Similar ones have derailed other Senate priorities before.

Barrasso's [amendment](#), one of three he has introduced so far, is identical to legislation he and dozens of Republicans introduced last month ([E&ENews PM](#), June 19). It would prevent U.S. EPA and the Army Corps of Engineers from finalizing the regulatory proposal to increase the number of streams and wetlands that currently receive automatic protection under the Clean Water Act.

Another Barrasso [amendment](#) would block the Forest Service from moving forward with its proposed groundwater protection directive. As with the Clean Water Act rule, critics call the proposed directive a federal takeover of water rights ([E&E Daily](#), June 25).

The [third amendment](#) mirrors the House's "Open Book on Equal Access to Justice Act," which would require agencies to keep better track of Equal Access to Justice Act payments.

The future of controversial amendments to the sportsmen's bill is unclear. While Republicans generally want a chance to vote on those amendments, many are also counting on the bill's passage ([E&E Daily](#), July 8).

During remarks this morning, Senate Majority Leader Harry Reid (D-Nev.) said, "Our success in moving this legislation will depend on the cooperation of all senators putting aside political games and disputes over amendments in order to pass a bill that will benefit millions of Americans."

He added, "This is a bill that is as much a Republican bill as it is a Democratic bill. So why should this bill

be killed for procedural reasons?"

Republicans say Democratic amendments seeking to weaken provisions of the bill or add gun control measures may be what halt its progress.

So far, lawmakers have offered about a dozen [amendments](#). Many, like those introduced by Barrasso, target federal regulation.

Louisiana Sens. David Vitter (R) and Mary Landrieu (D), for example, are also using the bill as an opportunity to once again push for greater state control of the red snapper fishery in the Gulf of Mexico. Lawmakers from Gulf Coast states have railed against federal regulators, who cut the recreational fishing season to nine days this year.

Vitter has introduced an amendment that would hand over fishery management authority -- up to 200 miles offshore -- to Alabama, Florida, Louisiana, Mississippi and Texas. That authority would be contingent upon all the states agreeing on a management plan within 180 days.

Landrieu's amendment similarly aims to create a new fishery management plan through a state-led commission. But unlike Vitter's amendment, Landrieu's language would direct the Commerce secretary to review the commission's plan for compatibility with federal law and long-term conservation of the red snapper.

## **McCarthy challenges farm critics over EPA water rule**

**Energy Guardian**

**By Karen Sloan**

Environmental Protection Agency Administrator Gina McCarthy is trying to rally support for her agency's bid to clarify its regulatory jurisdiction over bodies of water, visiting a Missouri farm and addressing the Agricultural Business Council of Kansas City.

Seeking to confront opponents like the American Farm Bureau Federation, McCarthy is arguing her Waters of the U.S. initiative is "good for clean water, good for farmers and ranchers and good for the outdoor industry."

"We have to understand how we can protect clean water and make sure we have a strong farm economy and how they can go hand in hand," McCarthy told reporters ahead of her trip.

A website set up by the Farm Bureau to oppose the regulation, [ditchtherule.fb.org](http://ditchtherule.fb.org), alleges the rule would expand the authority of the EPA and the U.S. Army Corps of Engineers over puddles, ponds and ditches.

McCarthy dismissed those claims as "ludicrous."

"That's just silly," McCarthy declared. "This proposal is all about protecting waters that science tells us can have a significant influence on downstream water quality."

"If cattle cross a stream, that is normal farming practices. All normal farming practices are exempt, period," she said, adding that all of the exemptions in play under the Clean Water Act now are included and actually extended. "Our expanded list of exemptions



opens up opportunities, it doesn't restrict them."

McCarthy claimed that opposition to the rule in the farming community appears to be "much more prevalent than it actually is."

"We're getting a lot of support from farmers and ranchers across the U.S., and their voices are being a little bit drowned out," she said. "There are great farmers out there that are embracing the clarity this rule can provide."

"Water is their lifeblood, as well as ours," McCarthy added.

The EPA was prompted to write the rule by Supreme Court decisions, she said, which told the agency "to have a more science-based process" to identify what waters should be covered under the Clean Water Act.

Opponents aren't buying her arguments, however.

"The EPA 'Waters of the U.S.' proposal broadly expands federal jurisdiction," American Farm Bureau Federation President Bob Stallman told the House Subcommittee on Water Resources and Environment in testimony last month. "It threatens local land-use and zoning authority, and is an end-run around Congress and the Supreme Court."

Congressional foes already have drawn battle lines. The bill released by the House Appropriations Committee for the environmental budget in fiscal 2015 slashes EPA funding but also contains provisions to block the agency from implementing new rules, including the regulation of carbon emissions from power plants and changes to the definition of navigable waters.

The measure "protects Americans from the onslaught of job-killing regulations coming from the EPA," said Rep. Ken Calvert, R-Calif., the chairman of the Interior and Environment subcommittee that is marking up the legislation Wednesday.

McCarthy's mission this week is to convince farmers that EPA is their friend, not their foe. The reception she receives at the AgriBusiness lunch in Kansas City Thursday could be a good barometer of what the heartland thinks.

CQ NEWS  
July 8, 2014 – 11:55 a.m.

## EPA: Farmers Raising 'Legitimate Concerns' on Water Rule

By Philip Brasher, CQ Roll Call

Farm groups are raising valid concerns about a list of exemptions to Clean Water Act permitting requirements, says EPA Administrator Gina McCarthy. She told reporters Tuesday that the objections came as a surprise to administration officials, but didn't say how the concerns might be addressed.

The exemptions are part of an interpretive rule intended to clarify what farming practices, including

forage management, fencing and grassed waterways, will be exempt from needing Section 404 permits. Groups led by the American Farm Bureau Federation say that the interpretive rule will effectively allow the Department of Agriculture's Natural Resources Conservation Service to control how the practices are undertaken since farmers wouldn't qualify for the exemptions unless they follow NRCS standards.

In response to a question from CQ Roll Call, McCarthy said that was "one of the most legitimate concerns that I'm hearing" about the administration's broad plan to redefine the jurisdiction of the Clean Water Act (PL-95-217). "It is certainly a concern we didn't anticipate."

McCarthy said the administration intended to encourage conservation practices, but the farm groups said the interpretive rule would have the opposite effect. "We thought we were doing something really good" to clarify what agricultural exemptions were exempt from the law, McCarthy said.

She is headed to Missouri Wednesday and Thursday to defend the administration plan. She'll visit a farm Wednesday and speak to the Kansas City Agribusiness Council on Thursday. She said her goal was to "ditch the myths and misinformation," a play on the Farm Bureau's campaign that uses the slogan, "Ditch the Rule."

McCarthy, in talking to reporters, alternated between derision and expressions of sympathy with farmers. In a thinly veiled reference to organizations such as the Farm Bureau, she said some groups have "enjoyed the anxiety that's been created. It gives more visibility to some groups." She accused opponents of raising "silly" concerns, such as that the administration wants to regulate "puddles on lawns, driveways and playgrounds." The tone suggests her trip is as much about protecting Democratic candidates in states such as Arkansas and Iowa, both of which neighbor Missouri, as it is in defending the plan itself.

Both the fiscal 2015 Energy-Water spending bill ([HR 4923](#)) that the House will debate this week and the draft Interior-Environment measure unveiled this morning contain provisions to block the administration from implementing the plan.

## McCarthy Vows To Address Farmers' 'Legitimate' Concerns Over CWA Plan

Inside EPA/Posted: July 8, 2014

EPA Administrator Gina McCarthy is acknowledging what she says are "legitimate" concerns that the agriculture sector is raising over the administration's proposed plan to clarify the scope of Clean Water Act (CWA) jurisdiction, saying the agency will work to address fears that portions of the plan will unintentionally narrow some permit waivers.

But on a July 8 press call previewing a trip to meet with agriculture sector officials in Missouri, McCarthy signaled she is seeking to staunch what she says are "myths" surrounding the agency's proposed plan, adding that EPA needs to "knock down" such concerns in order to be able to take comment on and address more legitimate issues identified during the public comment period.

"We've already heard some legitimate concerns and we will respond to those," McCarthy said.

She cited as an example the administration's interpretive rule, which sought to expand permit waivers for a host of farm practices but which critics have charged actually narrow exemptions for "normal farming, ranching, and silviculture activities" by requiring compliance with Natural Resource Conservation Service (NRCS) standards to qualify.

The intent of the interpretive rule was not to "shrink farm exemptions, but to expand them," McCarthy said.

McCarthy also said that cattle grazing would be exempted from permit requirements under the current CWA waiver

for "normal farming activities."

The interpretive rule, which took effect March 25 and was released alongside the proposed jurisdiction rule, exempts 56 recognized conservation activities -- such as brush management, herbaceous weed control, and fencing in crops -- by specifying that they are "normal farming" measures that are exempt from dredge-and-fill permits under section 404 (f)(1)(A) of the CWA.

But industry and GOP critics have raised [concerns](#) that the interpretive rule could give NRCS new regulatory enforcement responsibilities and open the door to citizen suit enforcement seeking to compel compliance with the NRCS standards.

### Critics' Concerns

Industry and other critics have also raised concerns over the proposed rule, issued alongside the interpretive rule, that seeks to clarify when smaller waters are jurisdictional under the CWA.

The proposed rule, issued jointly by EPA and the Army Corps of Engineers, seeks to clarify the scope of the CWA following competing Supreme Court tests stemming from the 2006 ruling, *Rapanos v. United States*, that have complicated efforts by regulators to determine when smaller waters and wetlands are considered jurisdictional.

EPA and the Corps recently extended the comment deadline on the proposed rule from July 21 until Oct. 20.

But critics of the proposed rule say that it is based on flawed scientific and economic analysis and would unlawfully expand the scope of the CWA beyond what Congress intended, infringing on private property and state rights and creating burdensome hurdles to new development, agriculture and other industrial activity.

American Farm Bureau Federation, for example, launched a campaign, "Ditch the Rule," seeking to drive opposition to the rulemaking. And the Missouri Farm Bureau has sponsored a YouTube [video](#) "That's Enough," which parodies a song from the hit Disney musical 'Frozen' that seeks to highlight the potential impacts of the proposed rule for small farms.

Responding to such campaigns, McCarthy said she hopes her trip to Missouri provides an opportunity for dialogue to help "ditch the myths" about the rule.

McCarthy said that while there are "some legitimate concerns and some issues we teed up ourselves to seek comment on" regarding the proposed rule, some of the criticisms from opponents of the rulemaking have been "beyond the pale."

For example, McCarthy said, the agency is seeking to dispel "myths" that opponents of the rulemaking have circulated, such as that the policy seeks to regulate "small, unconnected waters including puddles" and "every last ditch," and that a CWA permit would be needed for cattle crossing a stream.

EPA has made clear in the proposed rule that only waters impacting downstream water quality would be regulated and sought to clarify that some types of ditches are excluded, she said. -- *Bridget DiCosmo*  
([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com)) This e-mail address is being protected from spambots. You need JavaScript enabled to view it )

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 070814 Clean Water Protection Rule Media Report - 31 items including E&E, Inside EPA, CQ on EPA approps, letters to the editor supporting CWA...  
**Date:** Tuesday, July 08, 2014 12:47:10 PM  
**Attachments:** [image004.png](#)  
[Clean Water Rule myths NRDC infographic.pdf](#)

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FYI.

Also attached is a new version of the NRDC infographic marking up the Farm Bureau's website.

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# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 8, 2014

### News Coverage

**Controversial cuts, riders expected as House subpanel votes on EPA, Interior spending,** E & E News, (see below), 07/08/14. Besides weighing in on funding levels, it is likely that the bill unveiled today will include some language aimed at curtailing EPA's air and water regulatory agenda. Likely targets for policy riders include EPA's carbon dioxide rules for new and existing power plants, and its proposed rule to change a Clean Water Act definition to increase the number of streams and wetlands that currently receive automatic protection.

**EPA Funding Bill Markup,** Inside EPA, (see below), 07/07/14. The GOP-led House has repeatedly tried to use the appropriations process to reduce the agency's overall funding. And Republican critics of the agency have included provisions in prior unsuccessful spending bills to block various regulations. Among the policies that lawmakers might try to halt in the FY15 bill are EPA's greenhouse gas (GHG) limits for power plants and a joint rulemaking with the Army Corps of Engineers on the scope of the Clean Water Act (CWA).

**EPA Takes the Offensive on Water Rule**, Congressional Quarterly, (see below), 07/08/14. The battle over the Clean Water Act is heating up again this week, with agribusiness interests pressing their effort to block the administration's proposed rule through the appropriations process. There's already a provision in the House fiscal 2015 Energy-Water bill addressing the issue, and there could also be language in the Interior-Environment draft that's being released today and marked up Wednesday.

**Overnight Energy: On Tap Tuesday**, The Hill, 07/08/14. Environmental Protection Agency chief Gina McCarthy will promote her trip to Missouri for outreach on the agency's Waters of the U.S. rule during a call with reporters Tuesday. McCarthy will preview her trip scheduled for later this week. She plans to meet with farmers, stakeholders, and agricultural business leaders to talk about the proposed rule, which seeks to clarify the agency's jurisdiction over the nation's streams and wetlands. McCarthy's outreach is likely a move to quell fears that the proposal is a "power grab" by the agency. Republicans have criticized it as a broad overreach of the agency's powers.

**EPA head to visit Missouri to push new definition of water covered under Clean Water Act**, St Louis (MO) Post Dispatch, 07/07/14. Environmental Protection Agency Administrator Gina McCarthy will visit Missouri Wednesday and Thursday to push a proposed rule that expands and clarifies water covered under the Clean Water Act. She'll visit a farm and give a speech in Kansas City backing what her office Monday called "a proposed rule that clarifies and protects our nation's waters under the Clean Water Act" after Supreme Court rulings muddled the definition.

**Ohio farm groups announce new water quality initiative**, Farm and Dairy, 07/07/14. The poll comes on the heels of another water quality poll announced June 26 by the Healing Our Waters-Great Lakes Coalition, which found that two thirds of Ohio voters support the state enacting stronger regulations to prevent run-off pollution from farms that ends up in the state's rivers and streams. The Healing Our Waters poll, conducted by environmental groups, also found that 62 percent of voters across Ohio believe in extending the reach of the federal Clean Water Act, to also cover wetlands and small streams.

**EPA waters redefinition causes uncertainty at Wyoming agencies**, Casper (WY) Star-Tribune, 07/07/14. "While they have excluded groundwater, they kept in the rule the notion of shallow subsurface water as jurisdictional," Tyrrell said. "We're not quite sure what the difference is. It's hard to read in the rule just what the clear line is as to whether waters will be jurisdictional or not." Tyrrell is concerned that the rule was drafted by the EPA without the input of states. The sheer size of the rule has left his staff members confused.

**Wyoming state engineer: New EPA rule confusing**, Houston (TX) Chronicle; KDLY/KOVE Radio/Casper, WY. 07/07/14. Wyoming State Engineer Pat Tyrrell says the federal Environmental Protection Agency's new proposed rule on what waters are under EPA jurisdiction is confusing.

**Farms, EPA on shaky ground**, (Sioux Falls, SD) Argus-Leader, 07/07/14. Now, a rule being proposed by the Environmental Protection Agency outlining which bodies of water the agency would oversee under the Clean Water Act again is rattling the agriculture industry. The EPA says it is necessary after recent court rulings to clarify the 1972 law. Many farmers fear it amounts to a land grab that could saddle them with higher costs, more regulatory red tape and less freedom to run their farms and ranches.

**EPA tries to clarify rule; Rep. Scott Perry doesn't buy it**, Central Penn Business Journal, 07/07/14. Ultimately, he said his constituents have heard the talk from the EPA before. These constituents will judge the EPA by its actions, not its words," he wrote in an email. "We're tired of words. We can find common sense ways to protect our environment and waterways without unnecessarily expanding the reach of the federal government."

**Indiana Farm Bureau concerned about proposal for more control over ditches**, Indiana Economic Digest, 07/06/14. The Indiana Farm Bureau held a meeting at Evansville-resident Manfred Stahl's farm. Area farmers, construction officials, and local government representatives participated in the discussion and the question and answer session at the end. U.S. Rep. Larry Bucshon, a Republican from the 8th District, also spoke at the event. "It's really not about clean water," Bucshon said, "it's about control."

**Farmers fight EPA proposal**, Charleston (WV) Daily Mail, 07/08/14. Clay Bailey, president of the Kanawha County Farm Bureau, said the proposed rule change attempts to further define “water of the United States” and extends the federal agency’s scope of authority in a way that could negatively affect not only farmers, but also the construction and oil and gas industries.

**Republican lawmakers sound off on EPA**, RFD-TV, 07/07/14. “They’re trying to federalize every drainage ditch in America so that you have to have a permit to deal with it and certainly that’s a real threat to rural America, a real threat to our farm community,” said Sen. John Boozman (R-Arkansas).

**EPA Chief on Tour to Defend WOTUS**, AgWired, 07/07/14. This Thursday, July 10, McCarthy will give a [speech before the Agricultural Business Council of Kansas City](#) to share the Administration’s views on why the proposed rules are needed and to answer questions from agricultural interests that have raised concerns about the proposal.

## **Opinion**

**View: Protect New York’s Waterways**, The LoHud (NY) Journal News, (op-ed), 07/07/14. Heather Leibowitz: This summer, the EPA is considering a rule to restore Clean Water Act protections to thousands of waterways here in New York and across the country. If finalized, the rule will be the biggest step forward for clean water in more than a decade. Until recently, the Clean Water Act protected all our waterways. But polluter-led lawsuits carved loopholes in the law and left 55 percent of New York’s streams and many of its wetlands vulnerable to pollution. Heather Leibowitz is director of Environment New York Research & Policy Center.

**EPA proposal protects water quality**, Providence Journal, (letter to the editor), 07/07/14. Lori Talbot: The proposal has generated some controversy in Congress, but many of those making wild claims about the rule may not have read the proposal or understand its sweeping exemptions for the agricultural community. Lori Talbot is a resident of Fall River, MA.

**Protect streams**, Scranton (PA) Times-Tribune, (letter to the editor), 07/08/14. Joshua Sonntag: The Environmental Protection Agency has made great strides to bring the Ackerly under the CWA. It plans to close those loopholes to supply a clean, healthy, and more vibrant environment for the county. This will make it safer for the children, animals, and plant life to thrive and have a more bountiful future. This is an important step for the EPA, but it needs your support. Joshua Sonntag, Penn Environment.

**Thankful for Clean Water Act**, Times of Trenton (NJ), (letter to the editor), 07/08/14. Andrea Lewis: We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. This “new” proposal is really an old one. It simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams, which provide drinking water to 117 million Americans and vital habitat for wildlife. Andrea Lewis is a resident of East Windsor.

**Clean Water Act is progress for farms, environment**, Sheboygan (WI) Press, (letter to the editor), 07/07/14. Bill Hamer: Lake water is clear and blue. River water is brown and muddy. All neighbors to the river must use respectful practices without regret. The Clean Water Act is progress. Wisconsin residents know this better than most. Bill Hamer is from Sheboygan Falls.

**Letter of the day: The importance of clean water**, Tampa Tribune, (letter to the editor), 07/08/14. Christina Heskett: Like just about everything else these days, the proposal has generated some controversy in the halls of Congress. But many of those making wild claims about the rule may not have read the proposal or understand its sweeping exemptions for the agricultural community. On the next hot day this summer, please sit down with a cool glass of clean water and send our members of Congress an email letting them know about the importance of clean water and healthy wetlands and streams — for our economy, wildlife and our way of life. Christina Heskett lives in Brandon, FL.



**New EPA water rule a threat to ag industry**, (Helena, MT) Independent Record, (op-ed) 07/07/14. Harry Kriegel: As we celebrate Independence Day and the liberties enshrined in our founding document, we need to be vigilant on the latest federal encroachments on our rights: President Obama's EPA and their attempt to use the Clean Water Act to restrict property rights of farmers and ranchers. Although the EPA's so-called "Waters of the U.S." rule has gone largely unnoticed, due to the media attention on the EPA's recently proposed carbon regulations, this far-reaching new water rule will dramatically tighten the EPA's stranglehold on Montana's economy. Henry Kriegel is deputy director of Americans For Prosperity — Montana.

**Trout Unlimited's report is watered down**, The (Catskill, NY) Daily Mail and (Hudson, NY) Register-Star (op-ed), 07/08/14. Columnist Dick Nelson: In a new report titled "Rising to the Challenge," National Trout Unlimited details the importance of small seasonal streams across America and is urging anglers to take action to protect waters by contacting their members of Congress and telling them to keep the Clean Water Act intact. However, what the report — which can be viewed at [www.tu.org/rising-challenge](http://www.tu.org/rising-challenge) — doesn't mention is how passage of the measure would give the federal government control in regulating state waters, regardless of size.

## **Blogs/Social Media**

**EPA Addresses Misinformation Surrounding Proposed "Waters of the U.S." Rule**, Center for Effective Government/The Fine Print blog, 07/07/14. April, the EPA introduced a [proposed rule](#) that clarifies what bodies of water are "waters of the U.S." and are covered by the Clean Water Act. The proposed rule is projected to provide \$388 million to \$514 million in benefits each year as a result of filtering pollution, providing wildlife habitat, reducing flooding, recharging groundwater, and supporting hunting and fishing. Opponents of the rule, ignoring the significant benefits the rule will deliver to the American people, have launched a misinformation campaign that is muddying the waters on this important issue.

**The EPA, WOTUS and the myth of environmental protection**, Feedyard Foodie blog, 07/08/14. Additionally, an "interpretive rule" that was published alongside the proposed definition by the same federal agencies devastates the collaborative relationship that farmers and ranchers have built with the Natural Resources Conservation Services (NRCS) by turning the NRCS into an arm of the EPA and converting the NRCS scientists from professional consultants/resources into EPA regulators.

**EPA Chief Headed to Show-Me State**, The Progressive Farmer Ag policy Blog, 07/07/14. EPA Administrator Gina McCarthy is taking a road trip to Missouri later this week to "meet with farmers, stakeholders and agribusiness leaders to discuss Waters of the US, a proposed rule that clarifies and protects our nations' waters under the Clean Water Act."



**The Daily Herald** @thedailyherald. 10m

Letter to the editor: EPA deserves thanks for updated **Clean Water Act**. [buff.ly/1j8Jiex](http://buff.ly/1j8Jiex)



**Todd Neeley** @toddnreeleyDTN. 2h

Been granted a sit-down interview with EPA Administrator Gina McCarthy this week to talk **Clean Water Act** rule.



**LSU AgCenter** @LSUAgCenter 2h

Reminder: EPA listening session on proposed **Clean Water Act** revisions is 11:30 a.m. on Wednesday in Crowley. [bit.ly/1rEBMry](http://bit.ly/1rEBMry)



**Brian Hires** @bhires 4h

New [#Clean](#) Water Act Ruling and Agriculture ("Waters of the US") [westernlandstewards.org/current-issues](http://westernlandstewards.org/current-issues) ... via [@codeboxr](#)



**E&E Publishing, LLC** @EETPublishing 6h

E&E Daily's [@AnnElizabeth18](#) outlines hurdles to [@EPA](#)'s plan to protect more [#wetlands](#) under the [#CleanWaterAct](#) (\$) [eene.ws/1mrghTJ](http://eene.ws/1mrghTJ)



**Cerebellum Beverages** @CerebellumH2O 2h

NMPF asks EPA to withdraw **Clean Water Act** Guidance [dlvr.it/6FXqxt](http://dlvr.it/6FXqxt)

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## APPROPRIATIONS:

### Controversial cuts, riders expected as House subpanel votes on EPA, Interior spending

Jean Chemnick, E&E reporter  
Published: Tuesday, July 8, 2014

Congress' annual tug of war over funding the Interior Department and U.S. EPA will push off this week with a House Appropriations subcommittee markup that is unlikely to lead to stand-alone legislation.

The House Interior and Environment subpanel will mark up its fiscal 2015 bill tomorrow. Details of the legislation will be available later today, but the subcommittee, chaired by Rep. Ken Calvert (R-Calif.), seems unlikely to grant Interior and EPA the full \$11.9 billion and \$7.9 billion, respectively, they have requested for fiscal 2015.



The president's budgetary blueprints for the two agencies pared back funding for EPA but requested a small increase for Interior. But it is likely that the GOP-controlled House will approve cuts to both in the name of fiscal responsibility and, in the case of EPA, curbing regulation.

Interior's Land and Water Conservation Fund (LWCF) has been a frequent target for reductions, even though it enjoys broad bipartisan support. The administration asked for \$900 million for the nation's premier land acquisition program, but in the past, the House panel has started by cutting the program, in part to preserve a negotiating position.

"You have to remember that this is the start of a long process," said Rep. Mike Simpson (R-Idaho), the former chairman of the Interior and Environment subpanel, in a recent interview. Simpson said that one favorite target was LWCF, because he knew that the Senate would add the funding back in when it came time to go to conference. The lower numbers in the House allowed him to preserve other programs that would otherwise have had to be cut to comply with House spending limits.

"So I tell people, don't get too fired up about the chairman's mark or the bill as it goes through the House, because the conference is where it's written," he said.

The president's budget already cuts \$581 million from the 2014 enacted levels for the Drinking Water and Clean Water state revolving funds, other popular programs that have sometimes been used for negotiating purposes. The two funds would receive \$1.8 billion for fiscal 2015 under the president's request.

The House panel might move to restore funding for the Diesel Emissions Reduction Act grant program, a popular initiative that offers money to states for retrofitting cars and trucks with dirty engines. The fiscal 2015 budget would have zeroed it out.

Besides weighing in on funding levels, it is likely that the bill unveiled today will include some language aimed at curtailing EPA's air and water regulatory agenda. Likely targets for policy riders include EPA's carbon dioxide rules for new and existing power plants, and its proposed rule to change a Clean Water Act definition to increase the number of streams and wetlands that currently receive automatic protection.

Appropriations Chairman Hal Rogers (R-Ky.) warned EPA Administrator Gina McCarthy at a hearing this March on her agency's budget that the Clean Water Act proposal "ain't going to happen." Opponents of the change characterized it as an "expansion" of federal jurisdiction that is likely to have broad effects on industry. The spending bill will almost certainly contain language designed to kill it.

But while House Republicans have tried repeatedly in past years to use the appropriations process to combat everything from EPA's CO2 rules to rules already in place for mercury, smog and soot, most of those efforts have died in the Senate. A fiscal 2011 rider to downgrade the level of protection afforded to the gray wolf under the Endangered Species Act was a rare exception.

And this year, Senate leaders have signaled they won't spend time on legislation that is likely to be weighed down with controversial amendments targeting EPA.

A bill to fund the Energy Department and other agencies was pulled from the floor last month when Senate Minority Leader Mitch McConnell (R-Ky.) moved to include an amendment that would have barred EPA from promulgating power plant rules until other agencies certified that the rules would have no effect on job creation.

But despite the GOP's scant success at enacting policy provisions, environmentalists remain concerned that a rider could make it into a continuing resolution at the end of the fiscal year.

"They're clearly pursuing a strategy of adding these to every bill they can, so that when we get to the end of the year and have to have a final decision on funding the government, they have a menu of poison pills to choose from," said Franz Matzner of the Natural Resources Defense Council.

**Schedule:** The markup is Wednesday, July 9, at 10 a.m. in B-308 Rayburn.

## EPA Funding Bill Markup

The House Appropriations Committee's interior panel will hold [a July 9 markup](#) of EPA's fiscal year 2015 spending bill. Although the subcommittee is yet to release text of the legislation, the measure is likely to aim to cut EPA's budget and block key policies, actions that the White House will almost certainly oppose.

The GOP-led House has repeatedly tried to use the appropriations process to reduce the agency's overall funding. And Republican critics of the agency have included provisions in prior unsuccessful spending bills to block various regulations. Among the policies that lawmakers might try to halt in the FY15 bill are EPA's greenhouse gas (GHG) limits for power plants and a joint rulemaking with the Army Corps of Engineers on the scope of the Clean Water Act (CWA).

President Obama has already signaled his opposition to such efforts, telling environmentalists recently that he opposes efforts to "[dismantle](#)" the CWA and cited the need to address [economic concerns](#) about the impact of the agency's GHG rules.

Regardless of how the House votes, any EPA budget bill faces an [uncertain future in the Senate](#) after appropriators there pulled the proposed energy and water bill -- which funds the Corps -- over concerns that vulnerable red-state committee members would vote with Republicans to attach amendments barring GHG rules and the CWA regulation, spurring fears that EPA could be funded through a continuing resolution in FY15.

CQ NEWS  
July 8, 2014 – 6:00 a.m.

## EPA Takes the Offensive on Water Rule

By Philip Brasher, CQ Roll Call

### In today's Morning Take:

PA Fights Back on Water Rule

*Join us for the [CQ on Agriculture Webinar](#) today @ 1 PM. CQ Agriculture Blog Editor Philip Brasher and reporter Georgina Gustin will be discussing the 2015 appropriations process and how it's playing out for agriculture and food policy. They will discuss the latest on implementation of the farm bill and the forecast for other hot regulatory issues, including: school nutrition, the Clean Water Act, immigration policy, GMO labeling and regulation, implementation of the Food Safety Modernization Act, poultry inspection, food aid policy, and trade negotiations.*

The battle over the Clean Water Act is heating up again this week, with agribusiness interests pressing their effort to block the administration's proposed rule through the appropriations process. There's already a provision in the House fiscal 2015 Energy-Water bill addressing the issue, and there could also be language in the Interior-Environment draft that's being released today and marked up Wednesday.

EPA Administrator Gina McCarthy is heading to Missouri this week in an effort to get back on the offense. Today, she'll be talking to the press about her planned Wednesday visit to the farm of [Bill Heffernan](#), a retired University of Missouri sociology professor well known in farm policy circles for his criticism of consolidation in agribusiness. She will speak Thursday to the Kansas City Agribusiness Council Luncheon on the topic.

Farm groups have been increasingly putting as much or more focus on the related interpretive rule as they are the proposed rule, arguing that the former will effectively put the Department of Agriculture's Natural Resources Conservation Service into a regulatory role. The interpretive rule spells out 52 farming practices that would be exempt from Section 404 permitting requirements as long as the practices, including fencing and cutting hay, are done to NRCS standards. Farm groups say that will make the standards essentially mandatory. The standard for managing hay is four pages long, the National Milk Producers Federation says in [comments](#) to EPA. "A very

significant portion of conservation and ordinary farming practices are carried out in this country without any reference to NRCS practice standards," the group says.

## Document 83

**From:** [Devine, Jon](#)  
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**Date:** Monday, July 07, 2014 11:14:50 AM  
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FYI.

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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 7, 2014

## News Coverage

-

**More battles ahead on EPA's Clean Water Act proposal**, E&E News, (see below), 07/07/14. The Obama administration's proposal to increase the number of streams and wetlands that receive automatic protection under the Clean Water Act is heading for another tough week on Capitol Hill. "If they offer a more narrowly tailored amendment that addresses some of the misinformation that's out there, that makes clear that the federal government may not regulate ditches and farm ponds, we're wholly supportive of that," Wood said.

**Bids to halt EPA carbon rules likely to roil House debate on energy and water spending bill**, E&E News, (see below), 07/07/14. The fiscal 2015 energy and water appropriations bill is scheduled to come to the House floor this week in a delayed conclusion to the Republicans' "energy week," but much of the debate may be on amendments targeting U.S. EPA efforts to curb power plants' carbon emissions. There are other points of contention, however, especially pertaining to policy riders in the bill that would prevent an increase to the number of streams and wetlands that currently receive automatic protection under the Clean Water Act and another that would block the Army Corps from imposing stricter rules governing when waste can be dumped into rivers or streams.

**House Appropriators to Try Again on EPA Budget**, Congressional Quarterly, 07/05/14. A House Appropriations panel this week will take on the increasingly difficult task of trying to move EPA's annual spending bill through the chamber via regular order. With major EPA proposals targeting carbon emissions from power plants pending — not to mention the agency's controversial Waters of the United States rule — there's little hope that this time around will be much different from past years.

**Farmers fear EPA intrusion**, Chillicothe (OH) Gazette, 07/07/14. Ommert said it is unknown how far the EPA would take enforcement under the proposal, but it could affect low-lying lands that flood during heavy rains — lands which are fairly common on farms across Ohio. Ommert and other farmers fear they would have to pay for costly environmental assessments and apply for permits allowing them to till soil, apply fertilizer, or engage in other farming activities because of the possible effect on waterways that would be newly regulated by the EPA.

**EPA waters redefinition causes uncertainty at the state level**, Billings (MT) Gazette, 07/05/14. The new rule is aimed at ending that confusion and clarifying protection measures for small streams and wetlands, but people opposed to the change say it's an EPA plan to take control of more surface water. "They're making a very honest effort to modify the definition of waters of the United States to comply with the Supreme Court decisions," said Wyoming Outdoor Council chief legal counsel Bruce Pendery. "At the same time, they are remaining true to the fundamental objective of the Clean Water Act to protect the physical, biological and chemical integrity of the waters of the United States."

**Various officials voice EPA concerns to Rep. Gardner**, Greeley Tribune, 07/05/14. Wilkinson and others said the complications resulting from more area and water in Colorado falling under "Waters of the U.S." rules could also detour collaborative water efforts between cities and farmers. As many retiring farmers over the years have sold their valuable water rights to growing cities, many are now pushing for alternative water transfers between farmers and cities that would reduce the amount of water permanently leaving the state's farms.

**Stream legislation a current concern**, Reading Eagle, 07/05/14. As people flock to waterways in Berks County and across Pennsylvania this summer to fish and kayak, environmentalists are turning their attention to a proposal that would restore protection to the nation's smallest streams. Nearly 60 percent of all of the stream miles in the United States are classified as small, intermittent or headwater streams, the report also noted. Intermittent streams are those that flow for several months of the year, including those caused by snow melt. Ephemeral streams occur for only a short period of time, usually after a heavy rain.

**Farmers oppose EPA's proposed changes to Clean Water Act**, KPLU Radio/Tacoma, WA, 07/03/14. Farmers across the country are riled up over the U.S. Environmental Protection Agency's [plan to revise the 1972 Clean Water Act](#). Depending on who you talk to, these revisions are either a "land grab" under the "brute force" of the federal government or a simple clarification of rules that ensure all Americans have clean water to drink.

**Farmers fear EPA intrusion**, Port Clinton (OH) News Herald, 07/05/14. Ohio farmers are sounding alarm bells about the potential influence of a new federal rule that's aimed at clarifying the Environmental Protection Agency's authority to regulate streams, wetlands and other waters. But many farmers say it's a dramatic expansion of Washington's reach that could result in new regulations covering ditches, ponds and creeks on their land.

**D.C. Doesn't Get Colorado Water: Various officials voice EPA-rule concerns to Rep. Gardner**, The Fencepost, 07/03/14. Wilkinson and others said the complications resulting from more area and water in Colorado falling under "Waters of the U.S." rules could also detour collaborative water efforts between cities and farmers. As many retiring farmers over the years have sold their valuable water rights to growing cities, many are now pushing for alternative water transfers between farmers and cities that would reduce the amount of water permanently leaving the state's farms.

**EPA: We're seeking to reduce regulation**, Baxter (AR) Bulletin, 07/03/14. The new rule has caused a stir

nationally and prompted Baxter County Quorum Court to pass a resolution opposing it. According to the EPA, it's listening to the public, and part of the controversy is the agency didn't do a good job with outreach.

**Headwater Trout Streams: True Trickle-Down Economics**, Hatch Mag, 07/04/14. Unfortunately, rather than working through the established rule-making already in progress, some members of Congress who oppose the rule for largely political reasons wish to nix the process and leave our headwater streams vulnerable. In response, Trout Unlimited has produced a [new report](#) that shows just how vital these small streams are for trout and salmon habitat and for downstream water quality.

**'Common Sense Nebraska' Challenges EPA Water Rule**, Farm Progress, 07/03/14. "The EPA proposal would vastly expand the federal agency's authorities over farms and ranches," said Steve Nelson, president of the Nebraska Farm Bureau, one of the organizations. "This rule is about how farmers and ranchers deal with their own land and about how EPA aims to take control of your land through expansion of the Clean Water Act.

**Hoeven Working To Eliminate "Waters of the United States" rule**, News Dakota, 07/03/14. Senator John Hoeven pressed U.S. Department of Agriculture Secretary Tom Vilsack to work with him to eliminate the proposed "Waters of the United States" rule and to address widespread concern among farmers and ranchers about the regulation that would expand Environmental Protection Agency authority to regulate small wetlands, creeks, stock ponds and ditches under the Clean Water Act.

**Hoeven Says Clean Water Act is an Overreach**, KUMV-TV/Williston, ND, 07/03/14. "We are going at it two ways. Either through the authorizing process which says to the EPA no you do not have the authority to do that or we are going to add it through the funding mechanism to say no you cannot spend any money to implement that proposal so we are going after it both ways. I'm hopeful we'll be able to get one or the other," says Hoeven.

**Commishes Nix EPA Rules**, Hills Home Page/Kerrville, TX, 07/03/14. Citizens of the State of Texas do not suffer silently myriad [rules](#) and regulations - especially those proposed by the federal government that might be construed as infringing upon the rights of property owners. Consequently, during a meeting on Thursday, June 26, Bandera County Commissioners unanimously approved a resolution that opposed new rules proposed by the United States Environmental Protection Agency (EPA) and the US Army Corps of Engineers (ACE).

**AG Groups Continue Working To Derail Waters of the US Rules**, Southern Farm Network, 07/07/14. On Friday we heard from Anne Coan, North Carolina Farm Bureau's Director of Environmental Affairs regarding the proposed rules amending the Environmental Protection Agency's Waters of the US regulations. "The EPA has been interested in extending its jurisdiction over more land for the past few years. They did not like some US Supreme Court decisions in 01 and 06 that limited their jurisdiction under the Clean Water Act. So they are using this new definition of Waters of the US to legally circumvent the intents of Congress and those two decisions."

**Amid debate of fireworks, Lake Tahoe's show will go on**, KCRA-TV/Sacramento, CA, 07/04/14. Plaintiffs Joseph and Joan Truxler, who live in Marla Bay near Zephyr Cove, claimed in the complaint filed in November that the authority violated the federal Clean Water Act more than 1,000 times during the past five years. Under the settlement, the Lake Tahoe Visitors Authority will step up oversight of post-fireworks cleanup and establish a hotline for residents to report any debris. The authority is based in Stateline, but represents hotel-casinos and businesses on both sides of the California-Nevada line at South Lake Tahoe.

## **Opinion**

**Congress considers muddying Clean Water Act**, Philadelphia Inquirer, (editorial), 07/05/14. In short, the proposed legislation would pretty much allow individual states to veto standards set by the Clean Water Act - the better to attract polluters or please local industries that want to avoid the expense of cleaning up the poisonous crap they generate - and that just might want to show their gratitude by making



big contributions to the helpful politicians' election campaigns. Environmental groups say this legislation is the single most serious threat to the Clean Water Act in its 39-year history. Congress should "deep-six" it.

**EPA's rule change needed to protect Utah's headwaters**, The Salt Lake (UT) Tribune, (op-ed), 07/03/14. Shaun McGrath: Recently the Environmental Protection Agency and the U.S. Army Corps of Engineers proposed a rule that will make the protection of water resources more clear and consistent, and easier for businesses that need permits. This long-awaited rule is great news for Utah. Shaun McGrath is regional administrator for the EPA's Region 8 office, covering Utah, Colorado, Montana, North Dakota, South Dakota and Wyoming.

**Don't forget to thank EPA for the clean glass of water**, Columbia (TN) Daily Herald, (letter to the editor), 07/03/14. This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act. The proposal will restore federal protections to two million miles of streams – waters that provide drinking waters to 117 million Americans and vital habitat for wildlife.

**Clean Water Act rule will safeguard water quality**, The Ogdensburg (NY) Journal, (letter to the editor), 07/05/14. Summer is here and many of us are heading out to spend time on the water. We should be glad the Environmental Protection Agency has recently proposed a long-overdue rule that will safeguard water quality across the country. This "new" proposal is really an old one: it simply clarifies which bodies of water are protected under the Clean Water Act.

**EPA vs. the 4<sup>th</sup>**, St George (UT) News, (editorial), 07/03/14. I think most Americans, when they celebrate the Fourth of July in some way, are also celebrating the freedom, the wealth, and the empowerment that comes from private ownership of property, and these are the fundamental American values that this EPA rule undermines. Losing our fireworks would be an embarrassing and shameful loss, losing the foundation of the American Dream would be far more threatening.

**The case for banning fireworks**, Salon, (op-ed), 07/04/14. Lindsay Abrams: The latest EPA conspiracy theory comes to us via Senate Republicans, 10 of whom signed a letter to the agency expressing their concern that new regulations could put a stop to patriotic festivities. "If finalized," the letter warns, "EPA and the Army Corps of Engineers' proposal to expand the Clean Water Act's definition of the 'waters of the United States' may enable litigious environmental groups to jeopardize fireworks displays throughout the country." The EPA isn't coming for your fireworks. No one is coming for your fireworks, unless your fireworks are illegal. But maybe they should. Lindsay Abrams is an assistant editor at Salon, focusing on all things sustainable.

**EPA Rule is a 'regulation grab'**, The Baxter (AR) Bulletin, (op-ed), 07/03/14. Mickey Pendergrass: The Baxter County Quorum Court passed a resolution Tuesday night expressing opposition to the Environmental Protection Agency and Corps of Engineers proposed rule to clarify, or according to others expand, the definition of navigable waters in the Clean Water Act.' Mickey Pendergrass is a Baxter County Judge.

**Obama's out-of-control EPA regulators want to cancel your Independence Day fireworks celebration**, United Liberty.org, (op-ed), 07/03/14. Matthew Hurtt: Senate Republicans are concerned a "power grab" by President Obama's Environmental Protection Agency (EPA) may lead to the end of celebratory fireworks displays along America's lakes and other waterways. Matthew Hurtt is a small-L libertarian who lives in Arlington, Virginia

**Ditch water rule**, Wichita Eagle, (letter to the editor), 07/07/14. Aaron M. Popelka: The proposal attempts to bring ponds, puddles, ditches and even dry land under federal regulation. This could require more permits for routine farming activities. Despite what they have said, the agencies narrowed statutory exemptions for agriculture under the CWA. These requirements could prevent expansions, conservation practice implementation, and other beneficial activities that provide jobs and water quality benefits for Kansas. Aaron Popelka is president-elect, Kansas Agricultural Alliance.

## **Blogs/Social Media**

The Need to #ProtectCleanWater Should be self-Evident - See more at:

<http://blog.cleanwateraction.org/category/protecting-americas-waters/#sthash.JDI4XyGo.dpuf>

Farm Family Make Fun of Obama's EPA in Must See Video Parody, 07/07/14

<http://conservativehideout.com/2014/07/07/farm-family-make-fun-of-obamas-epa-in-must-see-video-parody/>

You may have seen your last July 4<sup>th</sup> fireworks if EPA has its way, Red State blog, 07/06/14.

<http://www.redstate.com/diary/lifeofgrace/2014/07/06/epa-fireworks-canceling-rules/>

Published on Jul 3, 2014

This Week in AgriBusiness interview with President Sue McCrum about government overreach and the Clean Water Act.

<https://www.youtube.com/watch?v=DOtN-OxLamQ>



**Backcountry Hunters** @Backcountry\_H\_A 21h

Stand with Sportsmen and Conservationists for Clean Water [shar.es/ML3Wi](http://shar.es/ML3Wi) via [@nwf](https://twitter.com/nwf)



**Clean Water Action** @cleanh2oaction Jul 5

RT @ltcwa: Get schooled on **Clean Water Act** myths [bit.ly/1mX8Zyc](http://bit.ly/1mX8Zyc) thnx [@NRDCWater](https://twitter.com/NRDCWater) [@melissawaage](https://twitter.com/melissawaage) #ProtectCleanWater @cleanh2oaction



**Wildlife Action** @wildlifeaction Jul 3

Is there a new threat to clean water? Find out details here: [bit.ly/V2uCCX](http://bit.ly/V2uCCX)

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DN Editorial: Congress considers muddying **Clean Water Act** - [Philly.com](http://Philly.com) [ow.ly/yL07B](http://ow.ly/yL07B)

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**Our Task** @Our\_Task Jul 3

#tbt to when youth environmental activism paved the way for the Clean Air Act and **Clean Water Act**! [#ecoyouth pic.twitter.com/SHBh1Ju669](https://twitter.com/pic.twitter.com/SHBh1Ju669)



## More battles ahead on EPA's Clean Water Act proposal

Annie Snider, E&E reporter

Published: Monday, July 7, 2014

Story Tools sponsored by **Association of American Railroads**

The Obama administration's proposal to increase the number of streams and wetlands that receive automatic protection under the Clean Water Act is heading for another tough week on Capitol Hill.

Last month, efforts to force a vote on an amendment to block the rule during the Senate Appropriations Committee's consideration of the energy and water spending bill were stymied when Democratic leaders pulled the bill under pressure from the White House. But opponents of the water proposal have not given up and are expected to press for a vote on a rider on the issue during floor consideration of a sportsman's package this week (*see related story, below*).

It's not clear whether they will get that vote. Provisions in the bill related to lead bullets could result in water amendments being ruled germane. But forcing a vote on the controversial amendment would almost certainly undercut the bipartisan backing for a bill that is supported by groups across the political spectrum. Moreover, the water issue has not so far proven to be a top priority for Sen. Lisa Murkowski (R-Alaska), co-sponsor of the sportsmen's bill with Democrat Kay Hagan of North Carolina.

Joshua Saks, legislative director for the National Wildlife Federation, one of the staunchest supporters of the proposed water regulation, called any rider harming it a "poison pill."

"If this is a bill that's about protecting sportsmen and doing good for sportsmen, it's hard to see how a measure that's opposed widely by sportsmen makes any sense," he said.

Sportsmen's groups have been some of the biggest backers of the water proposal, seeing the small streams and creeks that it would protect as critical habitat for fish and other wildlife. Trout Unlimited last week released a [report](#) aimed at showing how important the waters at issue in the rule are to trout and salmon habitat in key states.

"The angler community, we're not like the environmental community, it's not like we're accustomed to signing on to sign-on letters or lobbying Congress about every other environmental issue, but this is kind of a gut-check issue for people who fish," Trout Unlimited President Chris Wood said. "There is no law that has done more to improve fishing in this country than the Clean Water Act and the most important part of the Clean Water Act is the protection for intermittent and ephemeral streams, if you care about fishing."

He said his group would have to "take a hard look at" any riders added to the sportsmen's bill, however, and that he would welcome an amendment that would underscore what the rule is not intended to do.

"If they offer a more narrowly tailored amendment that addresses some of the misinformation that's out there, that makes clear that the federal government may not regulate ditches and farm ponds, we're wholly supportive of that," Wood said.

A provision to block the rule from moving forward has already made it into the House energy and water spending bill, which will hit the chamber's floor this week (*see related story*). Stakeholders will be watching whether Democrats move to strip the provision, a decision that will likely turn on whether they think it would receive more votes this year than a similar vote last year, before the proposal was released.

[House Science hearing](#)

Meanwhile, opponents of the proposal will keep up the pressure with a House Science, Space and Technology Committee hearing tomorrow that will place EPA Deputy Administrator Bob Perciasepe in the hot seat.

Committee Chairman Lamar Smith (R-Texas) has been one of the lead opponents of the water regulation in the House, raising objections to the fact that the rule was proposed before an outside science panel has completed its review of the scientific document underpinning the rule ([Greenwire](#), Nov. 7, 2013).

EPA has been upping its efforts to beat back criticism of the rule recently, though. Perciasepe came armed with specifics and pluck to a House Transportation and Infrastructure subcommittee hearing on the rule last month ([Greenwire](#), June 11).

And EPA Administrator Gina McCarthy will be in refocusing her attention on the water rule at the same time, meeting with farmers in Missouri to discuss the regulation ([Greenwire](#), July 1).

**Schedule:** The hearing is Wednesday, July 9, at 10 a.m. in 2318 Rayburn.

**Witness:** Bob Perciasepe, EPA deputy administrator

## **APPROPRIATIONS:**

### **Bids to halt EPA carbon rules likely to roil House debate on energy and water spending bill**

Katherine Ling, E&E reporter Published: Monday, July 7, 2014

The fiscal 2015 energy and water appropriations bill is scheduled to come to the House floor this week in a delayed conclusion to the Republicans' "energy week," but much of the debate may be on amendments targeting U.S. EPA efforts to curb power plants' carbon emissions.

The Rules Committee advanced the \$34 billion spending [bill](#) for the Department of Energy, Army Corps of Engineers and other agencies before the July Fourth recess under a "modified open rule" that would allow any member to offer a germane amendment on the floor.

While EPA funding is controlled by another appropriations bill, other proposals that undermine the rules could be determined to be relevant to the energy and water funding bill.

Rep. Steve Daines (R-Mont.) introduced legislation, [H.R. 4850](#), just before the recess that would prohibit the proposed EPA standards from being implemented unless DOE's Energy Information Administration certifies that the regulations wouldn't increase electricity rates, along with instructions for other federal agencies to certify that no jobs would be lost from the standards.

There's a similar bipartisan measure, [H.R. 4813](#), also recently introduced, from West Virginia Reps. David McKinley (R) and Nick Rahall (D) that would stop EPA from enacting the proposed rule or any similar standards for five years without congressional approval.

"We're seeing the introduction of a spate of bills that set conditions that must be met before EPA can move forward, rather than eliminating EPA's authority outright," Franz Matzner of the Natural Resources Defense Council said in a blog post last week. "But the conditions would make it impossible for EPA to act. The bills, in effect, use a scalpel rather than the usual meat cleaver in the hope that no one will notice that the knife is still aimed at the jugular."

Similar efforts thwarted the Senate Appropriations Committee markup of the fiscal 2015 energy and water spending bill last month. The White House threatened to veto the bill after Senate Minority Leader Mitch

McConnell (R-Ky.) moved to include an amendment similar to Daines' bill that would require a series of tests, including that no jobs would be lost under the EPA rules ([Greenwire](#), June 19).

The underlying House spending bill passed the Appropriations Committee by voice vote last month. It would provide the Army Corps with \$5.5 billion, and DOE offices in charge of energy and scientific programs would get about \$10.3 billion.

There are other points of contention, however, especially pertaining to policy riders in the bill that would prevent an increase to the number of streams and wetlands that currently receive automatic protection under the Clean Water Act and another that would block the Army Corps from imposing stricter rules governing when waste can be dumped into rivers or streams.

The administration's use of the "social cost of carbon" when doing cost-and-benefit analysis for regulations may also be debated on the floor.

The House bill diverges from the White House spending request priorities, both between fossil fuel and renewable energy, but also within fossil energy itself. For instance, coal programs would see an almost \$20 million boost to \$412 million, but natural gas programs would be funded at less than half the level requested by the administration at \$23 million, although they would still be \$2 million above fiscal 2014 funding.

The House bill would provide \$13 million for "unconventional" fossil energy technologies, which would have been unfunded in the president's budget, and directs nearly all of that funding toward researching offshore oil and gas drilling in "challenging conditions."

Energy efficiency and renewable energy would mostly receive lower funding than requested by President Obama, except wind energy spending, which would see a \$19 million bump compared with this year, as well as boosts for advanced manufacturing and weatherization programs ([E&E Daily](#), June 18).

*Reporter Annie Snider contributed.*

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*Reporter Annie Snider contributed.*

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 070314 Clean Water Protection Rule Media Report - 26 items including more from GOP on fireworks and POTUS CWA promise...  
**Date:** Thursday, July 03, 2014 10:30:04 AM  
**Attachments:** [Clean Water Rule myths NRDC infographic.pdf](#)

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FYI. Note the spate of stories about fireworks displays, brought on by an over-the-top misleading letter from a number of Senate Republicans: [http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=b0071902-47c7-4b4d-b41d-4d42e28c00a8](http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=b0071902-47c7-4b4d-b41d-4d42e28c00a8).

Also, please find attached an infographic that NRDC produced, taking a virtual red pen to a page from the Farm Bureau's "Ditch the Rule" site, and explaining why it's all wet.

Have a happy 4<sup>th</sup>, fireworks and all!

Jon

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Thursday, July 03, 2014 10:13 AM  
**To:** Waage, Melissa  
**Subject:** 070314 Clean Water Protection Rule Media Report - 26 items including more from GOP on fireworks and POTUS CWA promise...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 3, 2014

-

**The Clean Water Protection Rule Media Report will be off for the holiday on Friday, July 4 and will return on Monday, July 7.**

## News Coverage

-

**No, the EPA Isn't Waging War on the Fourth of July**, New Republic, 07/02/14. First came the War on Coal. Now, there's a War on the Fourth of July. Or so the GOP would have you believe. In their tireless crusade against the Environmental Protection Agency, Senate Republicans are claiming an agency proposal will invite environmental lawsuits over fireworks displays and "foster expanded efforts to



undermine this form of celebration,” reports *The Hill*. The EPA says this is simply a legal clarification and does not offer any new protections, while the [GOP letter](#) warns this will open recreational activities—such as fireworks set over water—to environmental litigation.

**Senators Johanns and Fischer Say Waters of the U.S. Rule Threatens American Tradition**, KHAS-TV/Hastings, NE, 07/02/14. US Senators Mike Johanns and Deb Fischer are speaking out against the EPA, saying the Waters of the US rule threatens American Tradition. The Nebraska representatives say the proposed rule could jeopardize traditional Fourth of July fireworks displays across the country.

**Johanns, Fischer: Proposed EPA Rule Threatens American Tradition**, KTTT Radio/My Central Nebraska, 07/02/14. “Nebraskans are responsible stewards of our land and our water. I’ll continue to work with my colleagues to ensure our state’s precious natural resources remain in under local control,” said Deb Fischer, Republican representative.

**EPA Water Rule Could Extinguish July Fourth Celebrations, Warn Senators**, PJ Media, 07/02/14. The senators, led by Environment and Public Works Committee Ranking Member David Vitter (R-La.), noted that Lake Tahoe nearly had to cancel its fireworks show over an environmentalist lawsuit that claimed the display would pollute the lake and violated the Clean Water Act.

**Obama Vows to Oppose Efforts to Block Clean Water Act Jurisdiction Rule**, Inside EPA, (see below), 07/02/14. The president’s remarks appear to provide important support for the agencies’ pending proposal, which is facing a wall of criticism from industry groups and lawmakers from both parties but until now has not had the kind of support from top administration officials that EPA’s greenhouse gas rules for power plants have enjoyed. Although Obama indicated opposition to riders that would block the agencies from advancing the proposed rule, he stopped short of threatening to veto a planned GOP amendment to the fiscal year 2015 energy and water appropriations bill that would bar the Corps from developing or finalizing a CWA jurisdiction rule.

**Nebraska ag coalition wants EPA to ditch water proposal**, Omaha World Herald, 07/03/14. According to the coalition, the power to regulate ponds, ditches and the other water features in question was specifically given to state and local jurisdictions when Congress adopted the Clean Water Act, while EPA was charged with regulating “navigable waters” such as rivers. The U.S. Supreme Court has twice ruled against EPA for similar efforts to expand its reach.

**Nebraska coalition fighting new water law proposal**, Associated Press/Lincoln, NE, 07/03/14. But Common Sense Nebraska says that under the proposal, basic farming and ranching activities would require permits when those water features are present. The group says the permitting requirements can be costly and could delay time-sensitive farming practices.

**Farmers Urge EPA to ‘Ditch’ Proposed Clean Water Act Revisions**, Boise (ID) Public Radio, 07/02/14. Stoner said two Supreme Court rulings in the past decade muddled the waters when it came to what’s actually protected by the 40-year-old law and clarification is needed. But she added, “There’s no new types of waters included.” That argument isn’t swaying the critics though. The American Farm Bureau has launched a campaign with a rallying cry of “Ditch the Rule.” That’s because the bureau believes the new rules could apply to ditches -- and even puddles.

**Farmers Urge EPA To Ditch Proposed Clean Water act Revisions**, Oregon Public Broadcasting, 07/03/14. States do have their own regulations that can complement or sometimes exceed federal rules when it comes to clean water, In Oregon, the Department of Environmental Quality regulates waterways. Jane Hickman of that agency’s Water Quality Division said it’s possible the expanded federal definition of waterways will have minimal impact in Oregon. That’s because the state’s definition of a regulated waterway is already broader than the proposed federal version.

**Gautier joins Mayor’s Conference in questioning Clean Water Act change**, Associated Press/Pascagoula, MS, 07/03/14. The city of Gautier (MS) is joining the U.S. Conference of Mayors in opposing an Environmental Protect Agency proposal to broaden the scope of what is considered a regulated waterway. Gautier Mayor Gordon Gollott and the city council this week approved a



resolution sponsored by the mayor's conference in opposition to the new rule.

**EPA may spend summer defending waters rule**, Farm Futures, 07/03/14. Agriculture groups haven't been subtle in voicing opposition to the proposed rule changes, which aim to clarify what waters fall under the definition of waters of the U.S. If a water falls under the Waters of the U.S. definition, EPA and the Army Corps of Engineers could have the jurisdiction to enforce regulations outlined in the Clean Water Act.

**Jenkins joins in protesting EPA Overreach**, Pocahontas Times/Marlinton, WV, 07/02/14. State Sen. Evan Jenkins attended a town hall meeting June 25 sponsored by the West Virginia Farm Bureau to discuss the impact of proposed regulations by the EPA regarding the "Ditch Rule." In March, the EPA issued a rule which would expand its authority under the Clean Water Act to any waters they define as navigable, including puddles, ponds and ditches, even on private lands and farms.

**Farmers Urge EPA to Ditch Proposed Clean Water Act Revisions**, New-Mexico News, 07/03/14. Bailey said there are more than a dozen low places around her farm where water collects like this after heavy rains. She said it typically evaporates or seeps into the ground. But she added that she isn't sure whether these normally dry spots would be subject to regulation under the new rules. If they are, that could mean costly and drawn-out environmental assessments and permits for any farm work done near these transient patches of water.

**Developers fear effects of proposed clean water rule**, Port City Daily/Wilmington, NC, 07/03/14. He's one of several voices across the nation—though he worries they're relatively few—upset with an Environmental Protection Agency (EPA) proposal that opponents say would dramatically increase the amount of area federally regulated for water quality protection. The anxiety is in the thought that good, valuable land will be rendered undevelopable and, as such, worthless.

**East Texans Join Fight Over Water Rights**, WAVE-TV/Louisville, KY & WSFA-TV/Montgomery, AL 07/02/14. Rancher and Texas Farm Bureau Board President Hyman Boozer, relies on stock ponds and flowing water to sustain livestock. Consequently, he joins Texas Farm Bureau's opposition to redefining 'waters of the united states' in the Clean Water Act. "It can include anything from streams, ponds, even the streams brought about after a rain," Boozer said.

**Nebraska Ag finds new way to fight EPA**, KLIQ-FM/Hastings, NE, 07/02/14. Nebraska ag organizations have found a new way to fight EPA regulations. Seven organizations, including the Nebraska Corn Growers Association, Nebraska Cattlemen and the Farm Bureau have formed "Common Sense Nebraska." Together they kicked off the #DitchTheRule campaign yesterday.

## **Opinion**

- **Clean water: As regulators battle producers, alternatives are needed**, Scottsbluff (NE) Star-Herald, (editorial), 07/02/14. In Nebraska, we farm. We also process, manufacture, boat, fish, swim and drink water. For the most part, those uses coexist peacefully. However, government regulators often have their eye on what goes into our streams and lakes, and our agricultural producers, which drive our economy, need a place to direct their waste and do it safely. These two sides don't always agree on the definition of safe. The Environment America Research and Policy Center's report has a few ideas for alternatives — including requiring industry to switch from toxic chemicals to safer alternatives

- **EPA's new water rule could hurt Maine farmers; Congress needs to ditch it**, Bangor (ME) Daily News, (op-ed), 07/02/14. Jon Olson: The well-meaning Clean Water Act brought a national focus on cleaning up the nation's waters at a time when environmental stewardship was lacking. When Congress wrote the Clean Water Act, it clearly intended for the law to apply to navigable waters. The EPA's rule, however, effectively expands the definition of "navigable" waters well beyond congressional intent. *Jon Olson is executive secretary of the Maine Farm Bureau Association, headquartered in Augusta.*

[The government is coming for your fireworks](#), Red Alert Politics, (op-ed), 07/02/14. Contributing writer Erin Mundahl: [Environmentalists have already used litigation to attempt to halt municipal fireworks displays, alleging that shows which happen over or near federally protected waters violate the Clean Water Act. As though state laws prohibiting impressive personal pyrotechnic displays weren't enough, a proposed expansion of the definition of "waters of the United States" could allow the EPA to regulate bodies of water on privately owned property, threatening private displays of patriotism as well.](#)

## **Blogs/Social Media**

**"Power Grab."** The Daily Banter blog, 07/02/14. Bob Cesca: Congressional Republicans can't be bothered to deal with real problems, but they are attempting to save our cherished heritage of [blowing things up without regulation](#). The EPA is trying to protect our traditions from lawsuits by offering a formal approval process, but Senate Republicans are too short-sighted to see that.

**EPA's New Property Grab: Private Water**, don'ttreadonus blog, 07/03/14. The EPA's attempt is to extend its power is drawing attention from lawmakers in both parties, who are referring to the proposed ruling as a 'land grab.'



**Restore the Delaware** @firstgreatwater 1h

"You have to protect [#headwaters](#) to protect downstream waters" [ow.ly/yIm5w](#) [#cleanwateract](#) @PhillyInquirer



**Chris Mundy** @mundyspeaks 1h

Lawmakers show opposition to EPA's **Clean Water Act**. [thehill.com/policy/energy-\\_\\_\\_\\_\\_](#)  
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**The Hill**

**Fears of EPA 'land grab' create groundswell against water rule**

[Lawmakers are up in arms over a proposal they fear could give the EPA expansive powers.](#)

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**KLTV 7** @KLTv7 2h

Proposed changes in **Clean Water Act** have some East Texans up in arms [shout.lt/wGJM](#)  
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**Save The Bay (SF)** @saveSFbay 22h

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[@latimes lat.ms/T6Uv3g #CleanWaterWednesday](https://twitter.com/sk_sfbay/status/2475298)

Inside EPA - 07/04/2014

# Obama Vows To Oppose Efforts To Block Clean Water Act Jurisdiction Rule

Posted: July 2, 2014

President Obama is vowing to oppose congressional efforts to block EPA and the Army Corps of Engineers' controversial rule to clarify the scope of Clean Water Act (CWA) jurisdiction, though he stopped short of threatening to veto such legislation as White House officials did informally earlier this month over a GOP plan to block EPA's climate rules.

Speaking to the League of Conservation Voters' Capital Dinner June 25, Obama said he would "stand with sportsmen and conservationists against members of Congress who want to dismantle the Clean Water Act," according to a White House transcript of the remarks. *The transcript is available on InsideEPA.com. (Doc. ID: [2475298](#))*

The president's remarks appear to provide important support for the agencies' pending proposal, which is facing a wall of criticism from industry groups and lawmakers from both parties but until now has not had the kind of support from top administration officials that EPA's greenhouse gas rules for power plants have enjoyed.

Although Obama indicated opposition to riders that would block the agencies from advancing the proposed rule, he stopped short of threatening to veto a planned GOP amendment to the fiscal year 2015 energy and water appropriations bill that would bar the Corps from developing or finalizing a CWA jurisdiction rule.

Supporters of the proposed rule say there is enough support from committee Democrats who are facing tough re-election fights, Sens. Mary Landrieu (LA), Mark Begich (AK) and Mark Pryor (AR), that such an amendment would win approval.

But the amendment was never offered as committee leaders pulled the bill from consideration due to fears that senators who opposed EPA's power plant rules -- including many of the same Democrats who oppose the CWA rule -- had enough support for a planned rider that would block the rules and the White House informally threatened a veto.

The agencies' proposed rule seeks to clarify the scope of the CWA following competing Supreme Court tests stemming from the 2006 ruling, *Rapanos v. United States*, that have complicated efforts by regulators to determine when smaller waters and wetlands are considered jurisdictional.

The proposed rule generally follows a test offered by Justice Anthony Kennedy, who suggested that such waters are jurisdictional when they share a "significant nexus" with navigable waters. Following this approach, the proposal seeks to assert default jurisdiction over all tributaries of navigable waters, as well as wetlands and waters located in floodplains and riparian areas. But the agency has concluded that there is inadequate data to support a blanket finding that "unidirectional" waters, or waters and wetlands outside of riparian and flood zones, share a connection to downstream waters.

But critics of the proposed rule say that it is based on flawed scientific and economic analysis and would unlawfully expand the scope of the CWA beyond what Congress intended, infringing on private property and state rights and

creating burdensome hurdles to new development, agriculture and other industrial activity.

For example, speakers during a June 26 Heritage Foundation panel, "The 'Waters of the United States' Proposed Rule: Is It a Federal Power Grab?" voiced concerns about the potential scope of the proposal, citing ambiguities in some of the proposed language as overly broad.

Tabby Waqar, environmental policy program manager for National Association of Home Builders, pointed out that though the proposed rule suggests waters can be found jurisdictional through a "shallow subsurface connection," there is no discussion of "what that is, where it ends, and where groundwater begins" particularly in states like Florida with extensive groundwater systems.

And Julie Ufner, associate legislative director for National Association of Counties, raised concerns during the panel that jurisdictional determinations trigger not only potential regulatory obligations under the CWA 404, 402 and 303 programs but other federal laws as well, including the National Environmental Policy Act and the Endangered Species Act.

Obama, however, appeared to provide strong support for the proposal. Referencing 1970s footage of the Cuyahoga River on fire, Obama added that supporters need to "just remind people that this thing [the CWA] worked," calling the law "one of the great achievements of modern American politics" because it demonstrated that a healthy environment could exist alongside economic growth.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 070214 Clean Water Protection Rule Media Report - 27 items including Philly Inquirer on clean water rule, Nebraska farmers, ranchers ban together, and fireworks absurdity from the GOP ...  
**Date:** Wednesday, July 02, 2014 10:25:00 AM

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FYI.

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**Cc:** 'Scott Stapf'; 'Alexander Frank'; [tbutler@sagecommunications.net](mailto:tbutler@sagecommunications.net); Devine, Jon; Hobbs, Karen; Foszcz, Cooper; Mogerman, Josh; Branegan, Jay; Wei, Jacqueline; Fleischli, Steve; Slesinger, Scott; Boom, Marc; [bhammer@nrdc.org](mailto:bhammer@nrdc.org); Watkins, Glenn  
**Subject:** 070214 Clean Water Protection Rule Media Report - 27 items including Philly Inquirer on clean water rule, Nebraska farmers, ranchers ban together, and fireworks absurdity from the GOP ...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 2, 2014

-

## News Coverage

**Cascading debate amid effort to clarify clean-water rule**, Philadelphia Inquirer, 07/02/14. Everyone thought the question had been answered 42 years ago, with passage of the Clean Water Act: What, exactly, are the waters of the United States - waters that warrant government protection to ensure they are drinkable, fishable, and swimmable? Adam Garber, field director for Environment Pennsylvania, said that lack of clarity had meant "more pollution" because the EPA simply backed off some waterways. That has left nearly 60 percent of Pennsylvania waters in bureaucratic limbo, said Brooks Mountcastle, eastern Pennsylvania director for Clean Water Action, a national advocacy group.

**Nebraska coalition fighting new water law proposal**, Associated Press/Lincoln, NE, 07/01/14. Some Nebraska farm and ranch groups have formed a coalition to fight what they say is a power grab by the Environmental Protection Agency. The group called Common Sense Nebraska was announced Tuesday and includes the Nebraska Cattlemen and Nebraska Corn Growers Association among its members.

**Myths and Facts About the EPA's Move to Protect Drinking Water**, Media Matters/Research, 07/01/14. Conservative media are calling the Environmental Protection Agency's clarification of the Clean

Water Act an "unprecedented land grab" that will regulate "nearly every drop of water." However, the proposed revision, which will help protect the drinking water of 117 million Americans, will not add any new waters but clarify that upstream sources will be protected from pollution.

**GOP to EPA: Don't douse Fourth of July fireworks**, The Hill, 07/01/14. A group of Senate Republicans are worried a new Obama administration proposal would put Fourth of July fireworks displays in jeopardy. The new rules, proposed by the Environmental Protection Agency and the Army Corps of Engineers, seek to clarify which of the nation's streams and wetlands are under the two agencies' jurisdiction, which some in the Senate fear could curtail lakeside festivities.

**Republicans: EPA Could Ruin Fourth of July**, Daily Caller, 07/01/14. While Americans get ready for the thousands of fireworks shows that will be occurring across the country this weekend, But the agency says additional bodies of water could be regulated if they have a "significant nexus" to a "traditional navigable water, interstate water, or the territorial seas." The EPA says it will provide a definition of "significant nexus" when the rule is published.

**EPA to reach out to farmers on water jurisdiction rule**, The Hill, 07/01/14. Environmental Protection Agency officials are planning to meet with farmers and agricultural interests this summer about their proposal to redefine the extent of the federal government's water jurisdiction, starting with a visit next week to Missouri.

**EPA Administrator Plans Trip to Clarify WOTUS**, KRVN Radio/Lexington, NE, 07/02/14. Environmental Protection Agency Administrator Gina McCarthy will travel to the Midwest next week to try and clarify what is covered under the proposed Waters of the U.S. rule. EPA Acting Assistant Administrator for Water Nancy Stoner says the agency knows it hasn't had the best relationship with the ag industry in the past - but that doesn't mean EPA can't do better.

**Nebraska bloc fighting new H2O law proposal**, Nebraska News, 07/01/14. The organization called Common Sense Nebraska was announced Tuesday and includes a Nebraska Cattlemen and Nebraska Corn Growers Association among members. But Common Sense Nebraska says that underneath a proposal, simple tillage and ranching activities would need permits when those H2O facilities are present.

**Nebraska Ag Groups Join Forces to Oppose EPA's "Waters of the U.S." rule**, KTIC Radio/West Point, NE, 07/01/14. "Common Sense Nebraska will be working across the state to bring awareness to farmers and ranchers and the general public about how harmful this rule would be. We're also going to work to build our coalition outside of agriculture as virtually anyone who puts a spade in the ground and turns the soil would be affected by this proposal," said Larry Sitzman, Nebraska Pork Producers Association executive director.

**Trout Unlimited Documents Importance of Clean Water, Small Streams to Anglers**, Outdoors First, 07/01/14. New Trout Unlimited report documents importance of small streams to clean water and fishing in America. As Congressional attacks on the Clean Water Act continue, anglers must mobilize to protect habitat and fishing opportunity.

**Wetlands: Prairie Pothole regional suffering 'alarming losses – report**, E&E News, 07/01/14. A new Fish and Wildlife Service report has found that thousands of acres of wetlands across the Upper Midwest and Great Plains that are critical nesting and breeding grounds for waterfowl are being plowed over each year for agriculture, oil and gas, and other development. Nancy Stoner, acting assistant administrator for U.S. EPA's Office of Water, said the declines represent "alarming losses" that signal the need to expand "private, state and federal efforts to conserve Pothole wetlands."

**Wetlands Losses Point to Importance of Protecting Prairies**, The Outdoor Wire/Bismarck, ND, 07/02/14. Wetlands also provide benefits to people, including filtering out impurities and controlling flooding. Yaich points out that the report demonstrates the importance of restoring the Clean Water Act provisions that once protected isolated wetlands in the prairies. "The future of waterfowl populations depends on stemming wetland loss," Yaich said. Guided by science and dedicated to program efficiency, DU works toward the vision of wetlands sufficient to fill the skies with waterfowl today, tomorrow and



forever.

- **EPA and Army Corps of Engineers clarify Protection for Nation's Streams and Wetlands**, North Fork Merchant Herald/Hotchkiss, CO, 07/01/14. The proposed rule clarifies protection for streams and wetlands. The proposed definitions of waters will apply to all Clean Water Act programs. It does not protect any new types of waters that have not historically been covered under the CWA and is consistent with the Supreme Court's more narrow reading of Clean Water Act jurisdictions.

- **BXQC opposes federal plan to expand navigable waters definition**, KTLO Radio/Mountain Home, AR, 07/02/14. A plan by federal agencies to expand and clarify the definition of "navigable" waters in the Clean Water Act of 1972 is being opposed by the Baxter County Quorum Court. The justices voted ten-to-one to adopt a resolution in opposition to the definition alterations at their regular meeting Tuesday and to distribute it to the Environmental Protection Agency, U.S. Army Corps of Engineers and the Arkansas congressional delegation.

## **Opinion**

- **Fiscal conservatives should love wetlands**, The Hill, (op-ed), 07/02/14. David Jenkins and Steve Ellis: The Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers recently announced a proposal to clarify the scope of the Clean Water Act with respect to wetlands and other key watershed features. It has instantly met with howls of opposition by development interests, property rights groups, the American Farm Bureau, and a number of lawmakers. In many watersheds, flood levels historically witnessed once every 100 years are now occurring much more frequently. With that additional flooding comes increased property loss, more federal disaster assistance, and higher flood insurance costs. Jenkins is president of Conservatives for Responsible Stewardship. Ellis is vice president of Taxpayers for Common Sense.

- **We must be vigilant in fighting pollution**, American Press/Lake Charles, LA, (editorial), 07/01/14. In not-so-surprising news, Louisiana ranks third in the amount of toxic chemicals released into waterways, according to a new report. The report called upon the government to "restore and strengthen" the Clean Water Act of 1972. Some suggestions were to make sure permits are current, require reductions in releases, eliminate permit loopholes and enforce pollution limits. Louisiana's economy relies heavily on industry, which in turn, relies heavily on our waterways. The waterways are used for fishing, skiing, boating and swimming.

- **EPA's Latest Foe: Congress**, Farm Futures, (op-ed), 07/01/14. Gary Baise: More than 260 representatives and senators now oppose EPA's proposed expansion of the CWA. Sen. Pat Roberts, R-Kan., and Sen. John Barrasso, R-Wyo., have introduced a bill to block EPA from issuing the rule, which would expand EPA's authority over wetlands, creeks, possibly stock ponds and ditches. "I want to make sure that the expansion of regulatory jurisdiction over 'Waters of the United States' is shelved for good!" says Roberts. Gary H. Baise is an Illinois farmer and trial attorney at the law firm Olsson Frank Weeda Terman Matz PC specializing in agricultural and environmental trial issues in state and federal courts.

## **Blogs/Social Media**

- Texas farmers and the water act

<https://www.youtube.com/watch?v=GCLyb4BeUmw>

- Retweeted 11 times



Media Matters @mmfa 13h



EPA clarifying **Clean Water Act** isn't "unprecedented land grab." Gov't covering fewer bodies of water than w/ Reagan [mm4a.org/1mFxrPT](http://mm4a.org/1mFxrPT)



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Trout Unlimited report highlights importance of small streams, and the **Clean Water Act** continues to be... [fb.me/2fCnNEXlt](http://fb.me/2fCnNEXlt)



**Aviva Glaser** [@aviva\\_g](#) 5h

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**Justin Schneider** [@ifbjustin](#) 5h

Thanks to everyone for attending discussion about **Clean Water Act** rule [#EPAoverreach](#) Time to engage! [@infarmbureau](#) [@ifbkyle](#)

**NWF Sportsmen** [@NWFsportsmen](#) 6h

Stand with [#sportsmen](#) and conservationists to [#protectcleanwater](#)! [bit.ly/1sUjg2S](http://bit.ly/1sUjg2S) [@NWFwater](#) [pic.twitter.com/ZeyHIWwzQ4](http://pic.twitter.com/ZeyHIWwzQ4)



**Eric Messick** [@ericmessick](#) 2h

That's grass roots action. [#water](#) [#EPA](#) City opposes expansion of **Clean Water Act** [mohavedailynews.com/news/city-oppo](http://mohavedailynews.com/news/city-oppo) ... via [@townnews](#)



**the other shoe** [@onlyothershoe](#) 6h

[@Gus\\_802](#) You know there is a big effort in the last few yrs by 2 VA congressmen and one from WY to gut the Clean Water act and the Corps?

[Details](#)



**Blue Biz Council** [@BlueBizCouncil](#) 13h

The **Clean Water Act** is good for [#gourmets](#)! Author Paul Greenberg [@4fishgreenberg](#) explains why today [@nprfreshair](#) [n.pr/1IPSkMO](#)

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## Document 86

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**Date:** Tuesday, July 01, 2014 10:28:25 AM  
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# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

July 1, 2014

## News Coverage

**Resource Rules Intensify Concerns Over EPA's Water Jurisdiction Measure**, Inside EPA, (see below), 06/30/14. Pending natural resource protection policies from federal wildlife agencies and the U.S. Forest Service, together with EPA and the Army Corps of Engineers' plan to clarify the reach of the Clean Water Act (CWA), are compounding industry and congressional concerns that the administration is significantly expanding federal oversight of development projects and limiting local controls. Speakers at a July 1 Bloomberg BNA webinar, entitled "New Proposed Rules on Endangered Species and Waters: The Impacts on Project Development," are expected to highlight similar concerns with the combined effects of the CWA and ESA proposals

**New Proposed Rules on Endangered Species and Waters: The Impacts on Project Development**, Bloomberg BNA/webinar, 07/01/14. Recent regulatory changes proposed by the EPA, FWS and the Corps would expand the scope of Endangered Species Critical Habitat Designations, limit the ability of federal agencies to approve actions adversely affecting critical habitat, and expand the jurisdiction of EPA and the Corps over wetlands and other waters.

**LCV Action Fund endorses Collins' re-election bid**, E&E News/Greenwire,(see below), 06/30/14. The League of Conservation Voters' political action committee (PAC) today endorsed the re-election of Republican Sen. Susan Collins of Maine, whose lifetime 69 percent voting score from the group includes support for the Keystone XL pipeline, blocking future carbon taxes or fees, and stopping the Obama administration's recent Clean Water Act guidance.

**Council to say EPA is all wet: City expected to adopt resolution opposing proposed water rule**, Mohave Valley (AZ) Daily News, 07/01/14. The Bullhead City Council is expected to adopt tonight a resolution opposing proposed rules affecting the Clean Water Act. The changes proposed by the federal Environmental Protection Agency have been derided by opponents as allowing the EPA to declare a mud puddle a federal waterway.

**Legislation Introduced to Stop EPA's 'Waters of the U.S.' Rule**, National Hog Farmer, 06/30/14. Sens. Pat Roberts (R-KS), John Barrasso (R-WY), David Vitter (R-LA), Mike Enzi (R-WY), Roy Blunt (R-MO), Mike Johanns (R-NE), and Ted Cruz (R-TX) have introduced legislation – the “Protecting Water and Property Rights Act of 2014” – to prevent the Environmental Protection Agency (EPA) from implementing its proposed “Water of the U.S.” rule which would allow the EPA to take over “all private and state water” in the U.S.

**VA Waterways Still Not So Clean Despite Many Efforts**, WVTF Public Radio/Roanoke, VA, 06/30/14. Opponents of the stricter Clean Water Act regulations argue that the rules are often overreaching, kill jobs by increasing expenses, and put hard-working farmers out of business.

**EPA Administrator to Speak at Agricultural Business Council of Kansas City**, AgriMarketing, 06/30/14. U.S. EPA Administrator Gina McCarthy will travel to the nation's heartland on July 10 to present a major policy speech before the Agricultural Business Council of Kansas City. The topic will be the Administration's proposed rules defining waters of the United States (WOTUS) under the Clean Water Act (CWA).

**EPA Rule 'Drowning' Co-ops**, Electric Co-op Today, 06/30/14. The proposal's potential to reign over ditches and tributaries, however, stands to stomp the very projects that support the Obama administration's climate change policies for lower-emission energy, such as natural gas and wind power, he said. “Applying the federal permitting processes to every pond, gully, dry creek bed, irrigation ditch, puddle, or other similar collection of water would be a huge increase in our regulatory burden,” Smith said.

**Seasonal streams and the Clean Water Act**, Fly Fishing, 06/30/14. Trout Unlimited is calling on anglers to tell their representatives in Congress to oppose legislation excluding small streams, even those that dry up at times, from the Clean Water Act. The organization says headwater streams are vital for fish reproduction and for the health of larger bodies of water downstream. It supports the Environmental Protection Agency's plan to explicitly state “intermittent and ephemeral” streams are covered by the Clean Water Act, and that development on or near them requires federal permission.

**New Trout Unlimited report documents importance of small streams to clean water and fishing in America**, Angling Trade, 06/30/14. A new report from Trout Unlimited details the importance of small seasonal streams across America to the overall health of the country's rivers, its fish and fishing opportunity, and it asks anglers to take action to protect these waters by contacting their members of Congress and telling lawmakers to keep the Clean Water Act intact.

**Trout Unlimited Documents Importance of Clean Water, Small Streams to Anglers**, The Fishing Wire, 07/01/14. Trout Unlimited scientists mapped how small streams influence historic native trout and salmon habitat in 16 states. Legislation in both the U.S. House of Representatives and the Senate would halt a rulemaking process that would restore protections to small "intermittent and ephemeral" headwater streams under the Clean Water Act.

**Water Rights – Again**, Wimberly Valley (TX) Community Forums, 06/30/14. Hays County Courthouse, San Marcos, TX – The Hays County Commissioners Court has unanimously approved a resolution

opposing proposed new rules that would expand the authority of the Clean Water Act (CWA) to include previously unregulated waters such as ditches, farm ponds, dry waterways and isolated wetlands.

## **Opinion**

**Letter: Don't let Obama take over water rights**, St Cloud (MN) Times, (letter to the editor), 07/01/14.

Long maintaining the Environmental Protection Agency as public enemy No. 1, my view has now been reconfirmed. New rules giving the EPA jurisdiction over all water are being proposed by President Obama and the EPA with "Definition of Waters of the United States" under the Clean Water Act.

**New EPA water rule threatens property rights**, Billings (MT) Gazette, (op-ed), 07/01/14. Henry Kriegel:

By redefining "navigable waters", the proposed rule would allow the EPA and Corps to regulate private land anywhere in the U.S. where water can conceivably flow—even dry creek beds and manmade ditches. The EPA's expansive federal power grab poses a serious threat to the water and property rights of land owners, especially farmers and ranchers across Montana and the nation. Henry Krieger of Bozeman is deputy director of Americans for Prosperity – Montana.

## **Blogs/Social Media**

**Setting the Record Straight on Waters of the US**, EPA Connect, 06/30/14. Nancy Stoner: The rule keeps intact all Clean Water Act exemptions and exclusions for agriculture that farmers count on. But it does more for farmers by actually expanding those exemptions. We worked with USDA's Natural Resource Conservation Service and the Army Corps of Engineers to exempt 56 additional conservation practices. These practices are familiar to many farmers, who know their benefits to business, the land, and water resources. Nancy Stoner is Acting Assistant Administrator for Water, EPA.

**EPA water proposal rattles ag industry**, The Westerner, 07/01/14. For years, farmers and ranchers have cast a wary eye toward new laws and regulations from Washington that they fear will be costly and burdensome. Agricultural producers argue they know the best way to take care of their land, not only to maximize production but to preserve the acreage they depend upon to survive. Now, a rule being proposed by the Environmental Protection Agency outlining which bodies of water the agency would oversee under the Clean Water Act has again rattled the agriculture industry

**Daily Update: Water regulations**, Agtogo, 06/30/14. On Saturday, Christopher Doering, *Des Moines Register*, reported Saturday, "The proposed water regulation, better known as the "Waters of the U.S." rule, is the latest measure that's symbolic of the growing fissure dividing the EPA and agriculture producers. "Farmers and ranchers have become more skeptical and less trusting of the environmental agency despite promises by the regulator that it is looking out for their best interests and willing to work with them when new rules and regulations are put in place.

### **Waters of the U.S. Rule Explained**

Nebraska Farm Bureau Director of National Affairs Jordan Dux explains the proposed Waters of the U.S. rule.

<https://www.youtube.com/watch?v=SFe9u2696gg>

### **It's time to Ditch the Rule, Nebraska Farm Bureau**

Puddles, ponds, ditches, ephemerals (land that looks like a small stream during heavy rain but isn't wet most of the time) and isolated wetlands dot the nation's farmland.

[https://www.youtube.com/watch?v=m62lyp\\_7Afs](https://www.youtube.com/watch?v=m62lyp_7Afs)



**NAA (Natl Apt Assn) @NAAhq 4h**



**American Rivers** @americanrivers 7h

We love @newbelgium pouring out praise for @EPA rule clarifying **Clean Water Act** [ow.ly/yBICZ](http://ow.ly/yBICZ)  
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## Resource Rules Intensify Concerns Over EPA's Water Jurisdiction Measure

Posted: June 30, 2014

Pending natural resource protection policies from federal wildlife agencies and the U.S. Forest Service, together with EPA and the Army Corps of Engineers' plan to clarify the reach of the Clean Water Act (CWA), are compounding industry and congressional concerns that the administration is significantly expanding federal oversight of development projects and limiting local controls.

The administration critics are concerned over proposed rules from federal wildlife agencies for protecting habitat critical to the survival of species subject to the Endangered Species Act (ESA), as well as a recently proposed groundwater protection directive from the Forest Service (NFS).

"What this means in practice is that the Forest Service and the EPA can, under these proposals, require cost-prohibitive federal permits for any proposal tangentially affecting virtually any body of water in the United States," Rep. Tom McClintock (R-CA), chairman of the House Natural Resources Committee's water and power subcommittee, told a June 24 hearing on the two agencies' measures.

The combined effect of the two agencies' proposals "do nothing more than make it more difficult to rehabilitate or build new projects that benefit agriculture, municipalities, species and habitat," resources committee Chairman Doc Hastings (R-WA) added.

And an industry source says the CWA proposal and the ESA habitat protection rule could also "expand the overall extent of federal jurisdiction," creating some concerns. But, the source adds, it is not clear whether the rules will "compound one another," or how they might overlap, especially given that EPA is highlighting the importance of wetlands in designating critical habitat.

Speakers at a July 1 Bloomberg BNA webinar, entitled "New Proposed Rules on Endangered Species and Waters: The Impacts on Project Development," are expected to highlight similar concerns with the combined effects of the CWA and ESA proposals, including, "how the rules fit into the broader regulatory policy of the Obama Administration and interact with active NGO agendas," and "how the rules might impact energy development, agriculture, manufacturing, and electrical generation," according to a notice announcing the webinar.

Environmentalists say such concerns are overblown, and that both the CWA and ESA regulatory proposals are likely to result in only "marginal changes" to the scope of federal jurisdiction, one source says. Industry often "over-exaggerates" the impact of critical habitat designations on development projects, given that the species law grants "a ton of flexibility" when it comes to private parties as opposed to federal agencies, the environmentalist says.

At issue are a series of proposals issued by the administration over the past few months, with EPA and the Corps' proposed CWA rule, issued April 21, the common element of concern.

### Agencies' Proposal

The agencies' proposal would clarify the reach law's reach after a set of Supreme Court rulings created uncertainty about when smaller waters, such as those that are geographically isolated from "navigable waters," are subject to the law's protections.

The proposed rule generally follows a test offered by Justice Anthony Kennedy, who suggested that such waters are jurisdictional when they share a "significant nexus" with navigable waters. Following this approach, the proposal seeks to assert default jurisdiction over all tributaries of navigable waters, as well as wetlands and waters located in floodplains and riparian areas. But the agency has concluded that there is inadequate data to support a blanket finding that "unidirectional" waters, or waters of riparian and flood zones, share a connection to downstream waters.

But critics of the proposed rule say that it is based on flawed scientific and economic analysis and would unlawfully expand the scope of the CWA beyond what Congress intended, infringing on private property and state rights and creating burdensome hurdles to new development, agriculture and other industrial activity.

In addition to the jurisdiction proposal, federal wildlife protection agencies -- the Fish & Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) -- [May 12 proposed a rule](#) to amend the ESA's critical habitat provisions. Among other things, the services are proposing to amend the regulatory definition of adverse modification to critical habitat to extend it to actions that would adversely affect the potential recovery of a species, not just the survival as the law currently states, and define critical habitat to include "those areas used throughout all or part the species' life cycle, even if not used on a regular basis."

"This regulatory change, if adopted, would raise the bar for ESA compliance for certain activities occurring within designated critical habitat," the law firm Perkins Coie says in a May 13 update on the proposed rules.

The agencies recently extended the comment deadline until Oct. 9.

The habitat protection rule is heightening concerns over the reach of federal jurisdiction in part because of EPA's recent focus on how protecting wetlands and other water resources under the CWA can also help protect species.

The agency's recently released rule governing cooling water intakes from power plants and other large facilities, issued under section 316 (b) of the CWA, includes a novel provision requiring the federal wildlife agencies to review state-crafted draft permits, which industry officials say could drive stricter requirements and set a precedent for future rules.

## **Permit Applications**

The rule creates a 60-day window for the wildlife services to review permit applications governing intake structures and to suggest changes to protect threatened and endangered species, similar to section 7 consultations requirements in the ESA, which is generally limited to federal agency actions.

Similarly, in a May 12 tweet posted by EPA's Office of Water, the agency, noting that May is wetlands month, pointed out that a third of endangered or threatened species live only in wetlands, and in a May 19 post says that wetlands support hundreds of threatened and endangered species, which the source says indicates that the agency may be increasingly focusing on critical habitat in its water policies.

Environmentalists are taking a similar, albeit stronger, stance, pushing agencies to expand both the number of listed species and their "critical" habitat. In 2012, they petitioned the Interior Department to provide ESA protections for 53 amphibians and reptiles in their habitats, citing in part a host of flaws in CWA permitting regulations the group said fails to adequately guard against species harms.

The group cited NMFS' landmark finding that the Corps' streamlined general permits -- known as the nationwide permit program -- jeopardizes species. The agencies are still consulting on this finding to limit the impacts on species.

Energy industry groups have also expressed concerns that environmentalists are targeting species in specific development areas, the industry source says, citing the Sand Dune Lizard and Lesser Prairie Chicken as examples.



In one recently filed suit in the U.S. District Court for the District of Columbia, environmental groups are challenging DOI's determination to list the species as "threatened" rather than "endangered," saying the department relied on an unlawful definition of the statutory term "in danger of extinction" that had not been subject notice and comment.

The industry source also cites the landmark pact FWS entered into with environmentalists in May 2011 that required the service to consider listing scores of species in areas that previously had not seen much focus, such as the Northeast.

The source says that developers should be carefully examining the settlement to identify areas where species may be found that are also candidates for development, and seek to enter in conservation agreements with the services now in an effort to get ahead of the critical habitat proposal, saying such agreements provide more "flexibility and foreseeability."

### **Regulators' Jurisdiction**

While EPA's proposal does not assert direct jurisdiction over groundwater, it does allow regulators to assert jurisdiction over smaller waters when they are connected to navigable waters via "subsurface connections," a term that many critics charge is vague and allows for significant expansion of the law's reach.

But industry and other critics say that although EPA's proposal does not target groundwater, the NFS' [May 6 proposal](#) would have the affect of regulating groundwater in vast swaths of the country, given that the agency is the largest landowner in the nation. The proposal suggests several new watershed management practices.

The service said the directive is needed because it does not currently have "any comprehensive direction" for management of groundwater resources on its lands. Comments on the proposal are due Aug. 4.

But at the June 24 hearing, GOP lawmakers and their witnesses charged it would expand federal jurisdiction over water currently governed by states. "The Forest Service is trying to jump over how every state has its own rules for groundwater. It's going to have an adverse effect because states will have to determine how Forest Service rules and directives apply to their state groundwater rights," Lawrence Martin, a Yakima, WA, attorney testifying on behalf of the Natural Water Resources Association.

He added that the area would have to hire a hydrologist or geologist "every time I have to do work on a ditch to figure out if it's excluded or not excluded" from the NFS proposed directive which would delay needed projects and come at a high cost to taxpayers in poor rural areas. -- Bridget DiCosmo ([bdicosmo@iwpnews.com](mailto:bdicosmo@iwpnews.com)) & Amanda Palleschi ([apalleschi@iwpnews.com](mailto:apalleschi@iwpnews.com))

## **CAMPAIGN 2014:**

### **LCV Action Fund endorses Collins' re-election bid**

Elana Schor, E&E reporter

Published: Monday, June 30, 2014

The League of Conservation Voters' political action committee (PAC) today endorsed the re-election of Republican Sen. Susan Collins of Maine, whose lifetime 69 percent voting score from the group includes support for the Keystone XL pipeline, blocking future carbon taxes or fees, and stopping the Obama administration's recent Clean Water Act guidance.

Gene Karpinski, president of the LCV nonprofit and its associated PAC, the LCV Action Fund, hailed Collins in a statement as "committed to finding bipartisan solutions that will safeguard our environment and combat climate change while promoting clean energy, which will create good paying jobs and reduce our reliance on dirty fossil fuels." The group also praised her 2010 introduction of a bipartisan climate bill

known as "cap and dividend" that would give U.S. taxpayers three-quarters of the proceeds from selling permits to emit greenhouse gases, reserving the rest for clean energy programs.

This fall, Collins faces Democratic challenger Shenna Bellows, who trailed the three-term incumbent by more than 50 percentage points in a poll released last week by the *Portland Press Herald*. Environmentalists have largely refrained from criticizing her votes in support of KXL, the rejection of which many greens consider a litmus test for seriousness about global warming, though a \$5 million multi-state advertising rollout backing conservationist senators saw the moderate-leaning Environmental Defense Fund foot the bill for the pro-Collins spot.

While Collins has stayed largely above the fray this month as U.S. EPA rolled out its proposed rule for power-plant emissions, she told *Greenwire* in a recent interview that the subset of Republicans who support legislative action on climate have "legitimate questions" about the agency's readiness to carry out the complex regulatory agenda ([E&E Daily](#), June 5).

As the LCV Action Fund noted in its statement, Collins' ranking on the group's widely disseminated vote scorecard makes her the most pro-environment GOP senator. She also has voted consistently to support a bipartisan energy efficiency bill that ran aground twice in 10 months over minority-party amendment requests that deal with hot-button issues such as KXL and EPA authority over greenhouse gases ([E&ENews PM](#), Sept. 4, 2013).

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 063014 Clean Water Protection Rule Media Report - 30 items including The Hill, Inside EPA on energy votes, New report from TU released, HuffPo on Barrasso and more from farmers ...  
**Date:** Monday, June 30, 2014 10:30:06 AM  
**Attachments:** [image004.png](#)  
[image005.png](#)

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FYI

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**Sent:** Monday, June 30, 2014 10:23 AM  
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**Subject:** 063014 Clean Water Protection Rule Media Report - 30 items including The Hill, Inside EPA on energy votes, New report from TU released, HuffPo on Barrasso and more from farmers ...

# Clean Water Protection Rule Media Report

## Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

June 30, 2014

### News Coverage

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**Crunch Time for Energy Bills**, The Hill, (see below), 06/27/14. Congress has at most 28 days left to pass legislation after their July 4 recess, before lawmakers turn their attention to November's midterm elections. That means there is only a tiny window for any meaningful energy legislation to reach the Senate floor this year. It also remains to be seen if Senate Majority Leader Harry Reid (D-Nev.) and Minority Leader Mitch McConnell (R-Ky.) will come to a deal on the appropriations package, which has been stalled due to an anti-Environmental Protection Agency measure McConnell wants a vote on.

**As Democrats Stall Nominees, Water Office Pick Said To Weigh Withdrawal**, Inside EPA, (see below), 06/27/14. The informed source says nominees like Kopocis' are being held up by controversy over EPA's policies, and the fear that support could hurt more than a dozen Democrats of the 20 that are up for re-election this fall. "If there's a vote between now and election day, there are 14 Democrats who would vote against" Kopocis because of his association with the controversial proposed rule on the scope of the Clean Water Act (CWA) proposed by EPA and the Army Corps of Engineers in April, says the informed source.

**New Trout Unlimited report documents importance of small streams**, MidCurrent, 06/30/14. Trout Unlimited scientists mapped how small streams influence historic native trout and salmon habitat in 16

states. Legislation in both the U.S. House of Representatives and the Senate would halt a rulemaking process that would restore protections to small “intermittent and ephemeral” headwater streams under the Clean Water Act.

**GOP Senator Fights Against Clean Water Rule**, Huffington Post, 06/29/14. Sen. John Barrasso (R-Wyo.) continued his fight against the Environmental Protection Agency this week, urging his colleagues to block a proposed rule that would redefine several forms of surface water under the landmark 1972 Clean Water Act. “Our bill will stop this unprecedented Washington power grab and restore Americans’ property rights. It’s time to get EPA lawyers out of Americans’ backyards,” Barrasso said.

**Farmers blast EPA ‘overreach,’** Sheboygan Press, 06/29/14. Farm groups contend the rule would expand the scope of water protected under the act to include not only rivers and lakes but ditches, streambeds and self-made ponds that only carry water when it rains. Many farmers fear it amounts to nothing more than a land grab that could saddle them with higher costs, more regulatory red tape and less freedom to run their farms and ranches.

**Wisconsin Farm Bureau fights proposed Clean Water Act expansion**, WXER-FM/Sheboygan, WI & WSAU/Wausau, WI, 06/30/14. Wisconsin Farm Bureau Federation Governmental relations director Karen Gefvert says the new plan would allow the EPA to regulate parts of properties that have intermittent standing water. “Ditches that are built for extreme rain events, small streams that are not wet throughout the year, puddles in farm fields” That could also cover man-made ponds and lakes on a farm.

**The roots of the agriculture-EPA rift**, Springfield (MO) News-Leader, 06/29/14. The Environmental Protection Agency’s proposed water rule is symbolic of a growing friction between the federal agency and agriculture producers. Farmers and ranchers have become more distrustful of the EPA, even as environmental officials say they’re trying to work with the agriculture community when new rules and regulations are put in place.

**‘I don’t think Congress intended for EPA to regulate a mudhole’: Clean Water Act proposal worries farmers**, Quincy (IL) Herald-Whig, 06/28/14. The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers jointly proposed a rule in March tied to protection under the Clean Water Act for streams and wetlands. It clarifies that the act protects all the nation’s waters, a network stretching from the streams that flow only seasonally or after heavy rains to wetland areas and the largest rivers. “It’s fear of the unknown as a farmer,” said Koeller, a New Canton farmer. “The fear of what this might become.”

**EPA water proposal rattles ag industry**, Des Moines Register, 06/28/14. Now, a rule being proposed by the Environmental Protection Agency outlining which bodies of water the agency would oversee under the Clean Water Act has again rattled the agriculture industry. The EPA says it is necessary after recent court rulings to clarify the 1972 law. Many farmers fear it amounts to nothing more than a land grab that could saddle them with higher costs, more regulatory red tape and less freedom to run their farms and ranches.

**McMillan against proposals by EPA**, (Florence, AL) Times Daily, 06/28/14. Alabama Agriculture Commissioner John McMillan said he will speak next month against the Environmental Protection Agency’s proposed changes to the 1972 Clean Water Act. McMillan said the suggested regulation changes would hurt two of Alabama’s biggest industries: farming and forestry.

**Report calls Savannah River third most toxic in America**, Bluffton (GA) Today, 06/29/14. Environment Georgia recommends policies that include requiring industry to switch from toxic chemicals to safer ones and is calling on the Obama administration to finalize a proposed rule with the EPA clarifying that the Clean Water Act applies to headwater streams, intermittent waterways, isolated wetlands and other waterways.

**Session to discuss proposed revisions to Clean Water Act**, Daily World, 06/29/14. Farmers, especially rice farmers, are urged to attend a “listening meeting” at the Acadia Parish LSU Extension Center Office in Crowley concerning proposed changes to the federal Clean Water Act. “The changes are pretty far reaching,” Linscombe said. “The bottom line is this a dramatic expansion of what is considered the

waters of the United States. It could affect what you can and can't do even to drainage ditches."

**Agri Views: Water Rights**, AGNet West, 06/30/14. Everett Griner talks about farmers questioning the Water Rights bill in today's Agri View.

## **Opinion**

–  
**Guest Editorial: By going it alone, EPA does damage**, (ID) Post Register, 06/29/14. The EPA probably wouldn't be pushing so hard if the Midwestern and Western states did a better job of self-regulating. Ag is big business and carries substantial political sway. The states and farmers should recognize the long-term effects to far away peoples and ecosystems if they continue to jettison leftovers out to sea or into the water table.

**Forum: Clean water critical for South Dakota outdoors**, Rapid City (SD) Journal, (op-ed), 06/28/14. Rich Widman and Chris Hesla: When final the rule will maintain exemptions for regular farming activities while re-establishing Clean Water Act protections for wetlands and streams that provide drinking water for one in three Americans. Rich Widman, president of Brookings and Chris Hesla is executive director, South Dakota Wildlife Federation.

**Water rule threatens property rights**, Montana Standard, (op-ed), 06/28/14. Henry Kriegel: The proposed "Waters of the U.S." rule would increase the jurisdiction of the EPA and Corps of Engineers by expanding the definition of "navigable waters" as used in CWA. Henry Kriegel is deputy director of Americans for Prosperity – Montana.

**Sebert: A sporadic threat to drinking water**, MetroWest Daily News/Framingham, MA, 06/29/14. Amanda Sebert: The proposed rule focuses on regulations to sources that are not present year round such as ephemeral streams and intermittent waters. Definitions are critical for the safety of the water sources on which we rely for recreation, food production, product manufacturing, and most significantly our drinking water. This rule is valuable for the United States as a nation but it is especially beneficial for the state of Massachusetts. Amanda Sebert is a consultant with Clean Water Action, a national citizens' organization concerned with maintaining clean, safe, and affordable water and preventing health-threatening pollution.

**EPA is attempting an unprecedented federal land grab**, Sumner News Cow (letter to the editor), 06/29/14. Helen Norris: The Sumner County Farm Bureau wants our fellow Kansans to know the Environmental Protection Agency is attempting an unprecedented federal land grab that will hurt Kansas businesses and damage our fragile state economy. Helen Norris is president, Sumner County Farm Bureau.

## **Blogs/Social Media**

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**Farm groups not happy with proposed EPA water regs**, Brattleboro (VT) Reformer, 06/28/14. The Environmental Protection Agency has for years been testing the legal limits of its authority to regulate so-called "navigable" waters in the U.S. This year, the agency released a proposed rule that it says "clarifies" the limits of its jurisdiction. But the state's largest trade association representing agricultural producers says this clarity appears to expand the agency's role and places added burdens on the farm community.

**Farm Friendly**, WKZO blog, 06/28/14. Laura Campbell, manager of the agricultural ecology department at Michigan Farm Bureau says the rule, as it now stands, would permit EPA to regulate practically any surface water feature as though it were a protected wetland, to include drainage ditches, low spots in fields that collect water during heavy rains, and even temporary streams that carry water only in the spring, as in snowmelt runoff. It's the kind of thing that could require farmers to obtain federal permits to carry out some of the most basic, routine activities, such as cropland preparation, nutrient application, and pest control.

**Meet the Awful Republican Who Doesn't Think You Have the Right to Drink Safe, Clean Water**, AATTP, 06/29/14. Barrasso, along with Senators [Jim Inhofe](#) (R-Okla.), [Dean Heller](#) (R-Nev.) and [Jeff Sessions](#) (R-Ala.) introduced legislation in 2012 that would prohibit the EPA from moving forward with the proposed regulation. Barrasso said then that, "Our bill will stop this unprecedented Washington power grab and restore Americans' property rights. It's time to get EPA lawyers out of Americans' backyards."

**Farmers Worry About Proposed Water Rule. Again**, [afarmerinohioblogspot](#), 05/19/14. Now, a rule being proposed by the Environmental Protection Agency outlining which bodies of water the agency would oversee under the Clean Water Act has again rattled the agricultural industry.

**The EPA Overreaches Again**, [theabsurdreport.com](#), 06/29/14. Blake Hurst: A new EPA rule is a disaster for farmers and the traditional understanding of the relationship between the federal government and the states. In farm country, the joke goes like this: "I don't want any more land, except my neighbor's." That's a pretty fair description of how the EPA has treated America's landowners. With a recent rule, the agency is continuing to broaden its jurisdiction over U.S. waters and is reaching to regulate more farmland. Blake Hurst is president of the Atchison County Chapter of the Missouri Farm Bureau.

### **Freak Out Nation/Facebook**

Thank goodness we don't need unpolluted water to survive. Oh wait...

### **Republican Senator Fights Against Clean Water Rule, Because He Knows Stuff | FreakOutNation**

Sen. John Barrasso (R-WY) seems to think that mankind does not need clean water to exist. Barrasso is fighting against the Environmental Protection Agency, urging his colleagues to block a proposed rule that would redefine several forms of surface water under the landmark 1972 Clean Water Act. Accor...



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**Quincy Herald-Whig** [@WhigNews](#) 14m

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**Ricardo Salvador** @cadwego 2h

"Public support for a strong **Clean Water Act** is needed to ensure Iowa's clean water future" by [@IowaRalph](#) [@LinkedIn](#) [linkedin.com/today/post/art](http://linkedin.com/today/post/art)...

## Crunch time for energy bills

*By Laura Barron-Lopez – June 27, 2014- The Hill*

Congress has at most 28 days left to pass legislation after their July 4 recess, before lawmakers turn their attention to November's midterm elections.

That means there is only a tiny window for any meaningful energy legislation to reach the Senate floor this year.

The House just wrapped up a week dedicated to energy bills, all of which put pressure on the Senate, especially vulnerable Democrats in fossil-fuel-heavy states, and President Obama himself.

The House passed a range of bills this week covering cross-border energy pipelines, natural gas exports, and offshore oil and gas drilling.

By passing the cross-border pipeline bill, which essentially eliminates President Obama's authority to review pipelines that cross the border from Canada and Mexico into the U.S., Republicans hope to draw attention to the Keystone XL permit process.

Passage of Rep. Cory Gardner's (R-Colo.) bill, which expedites natural gas exports to non-Free Trade Agreement countries, could also give him a political edge in his Senate race.

Gardner is challenging Sen. Mark Udall (D) for his seat this year, and Udall's own legislation on natural gas exports will likely stall in Senate committee.



While Sen. Mary Landrieu (D-La.), chairwoman of the Senate Energy and Natural Resources Committee, has committed to do everything in her power to hold a mark up on Udall's gas export bill, the odds appear to be against it.

When asked if she thought the committee would hold a mark up on the bill after this week's recess, the committee's ranking member, Sen. Lisa Murkowski (R-Alaska), said she wasn't sure.

"We are still waiting and seeing on that one," Murkowski said, adding that the committee still needs to hold a full hearing on it.

There might be some movement on a number of public land bills, however, and further discussion on exports in general.

"We will continue to push on some of the issues as it relates to exports," Murkowski vowed.

It also remains to be seen if Senate Majority Leader Harry Reid (D-Nev.) and Minority Leader Mitch McConnell (R-Ky.) will come to a deal on the appropriations package, which has been stalled due to an anti-Environmental Protection Agency measure McConnell wants a vote on.

Stay tuned to see if the Senate makes any energy waves after the recess.

Off Capitol Hill this week, the Natural Resources Defense Council is holding a conference call Tuesday on how climate change could make your summer worse this year.

From heat waves to bad air alert days, insects and dangerous swimming conditions, the green group says climate change might be to blame.

Also on Tuesday, the Woodrow Wilson Center will host a discussion on Russia, Ukraine and energy security.

Former U.S. Ambassador to Russia John Beyrle will participate in the conversation, along with Carlos Pascual, head of the Bureau of Energy Resources at the State Department.

Lastly, the Center for Strategic and International Studies will hold a talk on the European

Union's energy security and trans-Atlantic cooperation.

Dominique Ristori, the director of energy for the European Commission, will join the conversation.

## **As Democrats Stall Nominees, Water Office Pick Said To Weigh Withdrawal**

Inside EPA - Posted: June 27, 2014

Senate Democratic leaders are delaying floor votes on pending EPA and other environmental nominees because they lack the votes from vulnerable Democrats who are unwilling to back the nominees so soon before the midterm elections in the face of Republicans' push to make any vote a referendum on agency climate, clean water and other policies, congressional and other sources say.

The situation has reportedly led Ken Kopocis, now in his third year awaiting confirmation as EPA's water chief, to consider withdrawing his nomination entirely, an informed source says. "I was told that he was trying to make a decision as to whether it was worth staying or just leaving," the source says.

Kopocis did not return calls seeking comment but his withdrawal would create problems for EPA as the current acting head of the water office, Nancy Stoner, is limited by federal law in how much longer she can continue to serve in that role.

While Republicans have used procedural tactics to slow confirmations for some administration nominees since Democrats eliminated the filibuster for most executive nominees last November, a Senate GOP staffer told Inside EPA June 24 that the party is not blocking the environmental nominees from coming to the floor for a vote.

The source said Democrats could vote on long-pending nominees like Kopocis at their will. If Democrats complain about EPA nominees not reaching the floor after clearing a committee vote, "they're complaining about themselves," the GOP staffer says. "We have zero control."

A spokesman for Senate Majority Leader Harry Reid (D-NV) did not deny that Democrats are delaying floor votes but sought to blame Republicans for the holdup. "Unfortunately, thanks to obstruction from Senate Republicans, [the nominees] are stuck in the executive calendar backlog of more than 130 nominees. These nominations are a priority and we will continue working to find a way to advance these nominations soon."

Asked for comment June 24, Sen. Ben Cardin (D-MD) said he does not know if Democrats will bring EPA nominees to the floor this summer, "but I hope we do."

President Obama first nominated Kopocis to be assistant administrator for water in June 2011. Since then, he has thrice cleared the environment committee -- once in 2011, in 2013 and again on Feb. 6 of this year -- but the full Senate has yet to vote on his confirmation.

Under federal law, if Kopocis' nomination is withdrawn, whether voluntarily or because the Senate votes against it or fails to act by the end of the 113th Congress, Stoner will be forced to step down no more than 210 days later, sometime around Aug. 1, 2015, leaving the agency with even less political muscle behind the jurisdiction rule than it currently enjoys.

The Federal Vacancies Reform Act of 1998 allows an acting official to serve indefinitely as long as a nominee is pending, but according to 1999 Justice Department guidance, if the Senate twice fails to confirm a permanent replacement, the acting official may serve only seven more months even if the president files a third nomination.

Kopocis' first nomination expired, along with all other then-pending nominees, at the end of the 112th Congress in 2012. President Obama re-submitted the nomination in 2013, which started Stoner's second term as acting water chief. If Kopocis is not confirmed by the end of the year, Stoner's third, time-limited term would begin immediately.

#### Pending Nominees

The informed source says nominees like Kopocis' are being held up by controversy over EPA's policies, and the fear that support could hurt more than a dozen Democrats of the 20 that are up for re-election this fall. "If there's a vote between now and election day, there are 14 Democrats who would vote against" Kopocis because of his association with the controversial proposed rule on the scope of the Clean Water Act (CWA) proposed by EPA and the Army Corps of Engineers in April, says the informed source.

Those vulnerable Democrats likely include Sens. Mark Begich (AK), Kay Hagen (NC), Mary Landrieu (LA), Mark Pryor (AR), Jeanne Shaheen (NH), Mark Udall (CO), John Walsh (MT) and Mark Warner (VA).

According to one supporter of the proposed rule, Begich, Landrieu and Pryor were all anticipated to support an amendment that Republicans had planned to offer on the Corps' fiscal year 2015 appropriations bill before Democrats June 19 pulled it from committee vote over concerns that Republicans also had the votes to block EPA's greenhouse gas rules for power plants.

The informed source says Democrats may be similarly concerned that other EPA and environmental nominees could prompt debate over the administration's proposed environmental policies. Those pending nominees include Janet McCabe, EPA's deputy air chief who is currently acting head of the air office; John Cruden, the prospective head of the Department of Justice's (DOJ) environment & natural resources division; Victoria Baecher Wassmer, nominated to serve as EPA's chief financial officer; and Thomas Burke, who would head the agency's research office.

An environmentalist says Republicans, like red-state Democrats, may be seeking to shore up support - or in some cases, at least limit fallout -- in the midterm elections by attacking EPA's jurisdiction rule. After House Majority Leader Eric Cantor (R-VA) lost to Tea Party primary challenger David Brat, the GOP has new reason to be worried about losing votes for appearing insufficiently conservative, the source says. "Now that Cantor is gone, Republicans are more scared. And one place there is unity in

the Republican Party is in opposing the [jurisdiction] rule," the environmentalist says.

That the debate has reached even Cruden, widely seen as a popular figure who former DOJ officials say could be easily confirmed based on his personal qualifications, shows how the confirmation process has become entangled with wider criticism of the administration and its policies, the informed source says.

"Anything that comes up for the Department of Justice, the Republicans are going to latch on to it and start attacking," the source continues.

In one sign of the possible difficulty Cruden faces, the Senate June 17 confirmed Peter Kadzick -- who was nominated one day before Cruden -- to lead DOJ's legislative affairs office. While Kadzick was nominated Jan. 6, was reported out of committee Jan. 16 and now confirmed, Cruden, who was nominated Jan. 7, did not receive a vote in committee until March 27, and his confirmation has been pending on the Senate calendar since then.

A state source says the Obama administration has done little, if anything, to pressure even strong EPA supporters in the Senate to hold a vote on Kopocis or other pending environmental nominees. "The silence is deafening. I'm not surprised that Ken is still waiting, given the lack of administration push on the nomination," the state source says, adding that the White House "is putting all its efforts into climate change, and it sucks all the air out of the environmental debate, so to speak."

The informed source adds that Kopocis in particular could see his nomination derailed permanently due to the delay.

#### Jurisdiction Rule

Republicans are framing any confirmation vote as a referendum on the CWA jurisdiction rule, which red-state Democrats are under severe pressure to oppose.

For instance, Sen. John Barrasso June 19 introduced a bill, S. 2496, that would bar completion of the rule and has so far accumulated 34 co-sponsors, and on March 5 six Republicans on the chamber's Environment & Public Works Committee (EPW) wrote in a "dear Colleague" letter that "A vote in favor of Mr. Kopocis should be viewed as a clear endorsement of the President's water policy."

Both the March 5 letter and a press release from Sen. John Barrasso (R-WY), the lead sponsor of S. 2496, cite a Senate vote last May where a majority of senators approved an amendment to the Water Resources Development Act that would have barred EPA from finalizing guidance similar to the agency's rulemaking effort.

Although 52 senators voted for the amendment, they fell short of the 60 votes needed for passage.

The GOP is linking confirmation votes to broader administration policies even when the nominees appear more acceptable to conservatives than the interim officials currently serving, the informed source says. Most prominently, acting water chief Stoner -- formerly a prominent Natural Resources Defense Council (NRDC) official and litigator -- has now served for almost three years while Kopocis'

nomination has stalled.

"To my mind, Nancy Stoner is far worse from an industry perspective than Kopocis would be . . . there has been so much talk about her working on issues she advocated and litigated with NRDC," while Kopocis comes from a Congressional background, the informed source says. —

David LaRoss ([dlaross@iwpnews.com](mailto:dlaross@iwpnews.com))

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 062714 Clean Water Protection Rule Media Report - 17 items including POTUS supports "water rule," CQ on approps forecast, and more ag complaints...  
**Date:** Friday, June 27, 2014 2:40:59 PM

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FYI. I also saw at least a couple of stories associated with NRDC's release of our beach report, in which we highlighted the opportunities presented by this rule:

- <http://www.csmonitor.com/Environment/2014/0626/1-in-10-beach-water-samples-is-contaminated-report-finds>
- <http://theadvocate.com/home/9538064-125/report-action-needed-to-improve>

Jon

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Friday, June 27, 2014 10:10 AM  
**To:** Waage, Melissa  
**Subject:** 062714 Clean Water Protection Rule Media Report - 17 items including POTUS supports "water rule," CQ on approps forecast, and more ag complaints...

# Clean Water Protection Rule Media Report

Prepared for NRDC, Clean Water Action, and the National Wildlife Federation

June 27, 2014

## News Coverage

**CWA Jurisdiction Rule Wins Obama Support**, Inside EPA, (see below), 06/26/14. President Obama is vowing to oppose congressional efforts to block EPA and the Army Corps of Engineers' controversial rule to clarify the scope of Clean Water Act (CWA) jurisdiction, though he stopped short of threatening to veto such legislation as White House officials did informally earlier this month over a GOP plan to block EPA's climate rules.

**EPA Fight Jeopardizes Multiple Spending Bills**, Congressional Quarterly, (see below), 06/26/14. The EPA has become such a flashpoint this year, ahead of the midterm elections, that environmental issues are now one of the single biggest obstacles to passing appropriations bills in the Senate at all before the

end of the fiscal year. Partisan battles over the EPA have for years stymied debate on the Interior-Environment spending bill, but the agency's recently announced draft limits on carbon emissions from existing power plants have upped the ante and the Senate fight has spilled over into several other appropriations titles.

**Sen. Barrasso asks Senate to fight EPA waters rule**, (Casper, WY) Star Tribune, 06/27/14. Sen. John Barrasso asked his Senate colleagues this week to block a proposed rule from the Environmental Protection Agency that would redefine several forms of surface water in the United States. "Federal regulations have never defined ditches and other upland drainage features as 'waters of the U.S.,'" Barrasso said. "But this proposed rule does, and it will have a huge impact on farmers, on ranchers, on small businesses that need to put a shovel in the ground to make a living."

**Ag concerns dominate EPA rule change presentation**, The (ID) Prairie Star, 06/26/14. Proposed federal rules to redefine which waters are covered under the Clean Water Act prompted agricultural concerns during a panel discussion Tuesday. The discussion capped a two-day conference by the Idaho Water Users Association focused on state water supply and conditions, pending legislation, the effects of climate change, water policy improvements and pending federal mandates.

**Oklahomans disagree with potential EPA regulations**, The Oklahoman, 06/26/14. Many Oklahomans have voiced serious concerns with proposed changes to the Clean Water Act, even those who might be expected to support it. The Environmental Protection Agency's Clean Water Act now regulates "navigable waters," essentially any waters a boat can float on. It also allows the agency to regulate other waters on a case-by-case basis.

**County opposes EPA rule change**, The (Lima) Ohio News, 06/26/14. A proposed change to the definition of "waters in the United States under the Clean Water Act" could stymie development, according to the Delaware County commissioners. However, the commissioners believe the change is an example of the agency overstepping its bounds, and the three voted unanimously Thursday to formally oppose the change in language.

**Feds Seek Comments on Revision to Clean Water Act**, KVNZ Radio/Paonia, CO, 06/26/14. The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers released a joint proposal earlier this year that outlines [changes to the Clean Water Act](#). The public has until October 20 to comment on the revisions. The EPA and Army Corps have put forth changes to the "Waters of the U.S." section of the act.

**Rule Proposed by EPA Leaves Protection Still Unclear**, The (Wooster, OH) Daily Record, 06/27/14. A proposed rule from the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to clarify protection of streams and wetlands under the Clean Water Act is only muddying the waters, according to a congressman. U.S. Rep. Bob Gibbs, a Lakeville Republican whose district includes Holmes and Ashland counties, recently held a hearing on the proposed rule, and he is of the belief it is so vague and ambiguous it gives the EPA flexibility.

**County opposes EPA rule change**, The Delaware (OH) Gazette, 06/26/14. A proposed change to the definition of "waters in the United States under the Clean Water Act" could stymie development, according to the Delaware County commissioners. The change, proposed by the U.S. Environmental Protection Agency (EPA), would give the federal agency regulatory power would cover streams and wetlands. The current definition covers "navigable" waterways.

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## **Opinion**

**An EPA land grab**, The Kansan, (op-ed), 06/27/14. Steven B. McCloud: The Harvey County Farm Bureau Association wants inform our fellow Kansans of an Environmental Protection Agency attempt at an unprecedented federal land grab. Their proposed regulations undoubtedly will hurt Kansas farms and businesses, and cause significant damage to our recovering state economy. The EPA has proposed a rule, which would allow it and the U.S. Army Corps of Engineers, to use the Federal Clean Water Act to dictate how landowners use and maintain their private land. Steven McCloud is president of the Harvey



County Farm Bureau.

**EPA, Back off**, KETK-TV/Tyler, TX, (op-ed), 06/27/14. Neal Barton: Within the new addition, the EPA wants to stick in the Clean Water Act is a new provision for "waters of the United States." Those wary, like me, think this is a way to expand power to the EPA. You know, the EPA, the same heavy-handed agency which sent in a SWAT team to check the water purity at a gold mining camp in Alaska. Many fear if the waters of the United States is OK'd, they would have control over water on your private property. You would need to go through Uncle Sam if you want to redo the culverts or ditches on your property. Neal Barton is a reporter with the station.

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## **Blogs/Social Media**



**Ben Geman** @Ben\_Geman Jun 25

Obama: "I am gonna stand w/sportsmen and conservationists against members of Congress who want to dismantle the **Clean Water Act.**" [#WOTUS](#)

**Steve Fought** @stevenfought 10h

Dead last? Water quality at Ohio beaches worst in the USA, says NRDC. No time to undermine **Clean Water Act.** [nrdc.org/water/oceans/t...](#)

-



**Great Lakes** @healthylakes 20h

NEW POLL: 66% of [#Ohio](#) voters back stronger regulations to reduce farm runoff--nutrients that contrb to algal blooms [bit.ly/1yRGgzS](#)

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Farmers and Ranchers 'Gauge' New Clean Water ruling  
<https://www.youtube.com/watch?v=0HXsLyQtDHU>

Taking a Stand for Clean Water and the Chesapeake Bay  
<https://www.youtube.com/watch?v=Acp1Qt7bj0A>

The "Waters of the U.S." Proposed Rule: Is it a Federal Power Grab? (The Heritage Foundation)  
<https://www.youtube.com/watch?v=db1UoTmSIIA>

## **The Inside Story**



**CWA Jurisdiction Rule Wins Obama Support**

Posted: June 26, 2014

President Obama is vowing to oppose congressional efforts to block EPA and the Army Corps of Engineers' controversial rule to clarify the scope of Clean Water Act (CWA) jurisdiction, though he stopped short of threatening to veto such legislation as White House officials did informally earlier this month over a GOP plan to block EPA's climate rules.

Speaking to the League of Conservation Voters' Capital Dinner June 25, Obama said he would "stand with sportsmen and conservationists against members of Congress who want to dismantle the Clean Water Act," according to a [White House transcript](#) of the remarks.

The president's remarks appear to provide important support for the agencies' pending proposal, which is facing a wall of criticism from industry groups and lawmakers from both parties but until now has not had the kind of support from top administration officials that EPA's greenhouse gas rules for power plants have enjoyed.

Although Obama indicated opposition to riders that would block the agencies from advancing the proposed rule, he stopped short of threatening to veto a planned GOP amendment to the fiscal year 2015 energy and water appropriations bill that would bar the Corps from developing or finalizing a CWA jurisdiction rule.

Supporters of the proposed rule say there is [enough support](#) from committee Democrats who are facing tough re-election fights, Sens. Mary Landrieu (LA), Mark Begich (AK) and Mark Pryor (AR), that such an amendment would win approval.

But the amendment was never offered as committee leaders pulled the bill from consideration due to fears that senators who opposed EPA's power plant rules -- including many of the same Democrats who oppose the CWA rule -- had enough support for a planned rider that would block the rules and the White House informally threatened a veto.

The agencies' proposed rule seeks to clarify the scope of the CWA following competing Supreme Court tests stemming from the 2006 ruling, *Rapanos v. United States*, that have complicated efforts by regulators to determine when smaller waters and wetlands are considered jurisdictional.

The proposed rule generally follows a test offered by Justice Anthony Kennedy, who suggested that such waters are jurisdictional when they share a "significant nexus" with navigable waters. Following this approach, the proposal seeks to assert default jurisdiction over all tributaries of navigable waters, as well as wetlands and waters located in floodplains and riparian areas. But the agency has concluded that there is inadequate data to support a blanket finding that "unidirectional" waters, or waters and wetlands outside of riparian and flood zones, share a connection to downstream waters.

But critics of the proposed rule say that it is based on flawed scientific and economic analysis and would unlawfully expand the scope of the CWA beyond what Congress intended, infringing on private property and state rights and creating burdensome hurdles to new development, agriculture and other industrial activity.

For example, speakers during a June 26 Heritage Foundation panel, "The 'Waters of the United States' Proposed Rule: Is It a Federal Power Grab?" voiced concerns about the potential scope of the proposal, citing ambiguities in some of the proposed language as overly broad.

Tabby Waqar, environmental policy program manager for National Association of Home Builders, pointed out that though the proposed rule suggests waters can be found jurisdictional through a "shallow subsurface connection," there is no discussion of "what that is, where it ends, and where groundwater begins" particularly in states like Florida with extensive groundwater systems.

And Julie Ufner, associate legislative director for National Association of Counties, raised concerns during the panel that jurisdictional determinations trigger not only potential regulatory obligations under the CWA 404, 402 and 303 programs but other federal laws as well, including the National Environmental Policy Act and the Endangered Species Act.

Obama, however, appeared to provide strong support for the proposal. Referencing 1970s footage of the Cuyahoga River on fire, Obama added that supporters need to "just remind people that this thing [the CWA] worked," calling

the law "one of the great achievements of modern American politics" because it demonstrated that a healthy environment could exist alongside economic growth.

CQ NEWS – POLICY  
June 26, 2014 – 5:40 a.m.

## EPA Fight Jeopardizes Multiple Spending Bills

By Tamar Hallerman and Lauren Gardner, CQ Roll Call

The EPA has become such a flashpoint this year, ahead of the midterm elections, that environmental issues are now one of the single biggest obstacles to passing appropriations bills in the Senate at all before the end of the fiscal year.

Partisan battles over the EPA have for years stymied debate on the Interior-Environment spending bill, but the agency's recently announced draft limits on carbon emissions from existing power plants have upped the ante and the Senate fight has spilled over into several other appropriations titles.

At the center of it all stands President [Barack Obama](#) — who has made climate change-related regulations a central pillar of his presidential legacy, along with the Senate Democrats who support him — and the chamber's top Republican, [Mitch McConnell](#) of Kentucky, who has been fighting for political survival in a state where the coal industry is still a major employer and economic force.

Despite the considerable political heft of Appropriations Chairwoman [Barbara A. Mikulski](#), D-Md., the EPA tussle and the timing of it appears to have stunted work on spending bills and neutered much of the political momentum that's been generated in the appropriations process in the months since the budget agreement.

"The politics of greenhouse (gas) emissions and coal are very complicated because they're regional, not partisan," Mikulski said. "We're just sorting it out."

### Limitation Amendment

The trigger for the gridlock has been a limitation amendment sponsored by McConnell that would effectively block the promulgation of the EPA power plant regulations, even though the portion of which affecting the existing fleet is not expected to be finalized until the summer of 2015.

McConnell aides have been able to tailor the provision in different ways in order to make it germane to several of the annual spending bills, and they have said they are confident such provisions would likely attract majority support both in the Appropriations Committee and on the Senate floor from both Republicans and politically vulnerable Democrats from fossil fuel-reliant states.

"You can expect to see Sen. McConnell looking for every opportunity possible to protect American families and jobs from the President's EPA regulations," said one McConnell aide.

And Sen. [John Thune](#), R-S.D., said Thursday on C-SPAN's "Newsmakers" that Senate Republicans should be expected to try to get a vote on an amendment restricting the EPA's proposal regarding emissions from existing power plants at every opportunity on must-pass legislation, including a vehicle to fund the government.

The threat has drawn swift reactions from top Senate Democrats and the White House, who have

moved to clip consideration of the spending bills where McConnell has been able to feasibly offer the limitation amendment.

Senior Democrats punted a planned Appropriations markup of the generally noncontroversial Energy-Water spending bill last week after the White House apparently threatened to veto the measure if the McConnell provision was included.

Hours later, Reid yanked a three-bill spending package ([HR 4660](#)) from the Senate floor due to a tussle with McConnell over the terms of amendment debate that was centered, in part, on a similar McConnell EPA amendment that was reportedly crafted in a way that was germane to the Commerce-Justice-Science title.

The Senate Appropriations panel this week did not even schedule a full committee markup of the Financial Services spending bill, which funds the implementation of the Dodd-Frank financial regulatory overhaul ([PL 111-203](#)), the District of Columbia and the executive branch. Aides from both parties said that was also due, in part, to an expected GOP-sponsored EPA amendment.

Many GOP appropriators have said that while they are disappointed that the appropriations process appears to have slowed, they do not plan on getting in McConnell's way on the issue, boosting the likelihood that the appropriations standstill may stretch through the rest of the summer.

Many have pointed the blame at Senate Majority Leader [Harry Reid](#) of Nevada for insisting on a 60-vote threshold for amendments because of the EPA provision.

"It appears maybe they are protecting some of these environmental issues that the president is pushing, but if a majority in the Congress supports legislation, we should have the vote. We represent the people. That's how the process works, so we should be going through regular order and voting on these bills, and I hope we do," said [John Hoeven](#) of North Dakota, a Republican appropriator who also sits on the Senate Energy and Natural Resources Committee.

Talks between Reid, McConnell and top appropriators are expected to continue in the days ahead in an attempt to revive the appropriations process, but the standoff over the carbon regulations does not bode well for the balance of fiscal 2015 appropriations.

If Mikulski and leadership are unable to find a path forward in the days ahead, it effectively puts an end to what was widely considered Congress' best chance in years to enact multiple spending bills ahead of the Oct. 1 start of the fiscal year.

It also significantly ups the likelihood that the EPA — as well as most other federal agencies — will be operating under a continuing resolution for at least the first months of fiscal 2015.

"We'll have to have a lot of bipartisan determination to get back to regular appropriations," said [Jeff Merkley](#), D-Ore., an appropriator.

## Legacy Issues

Over the last year, Obama has implemented a series of executive-level actions aimed at cutting back on greenhouse gas emissions, circumventing a gridlocked Congress that has not built a consensus on the issue and outraging Republicans.

Democratic leaders, meanwhile, have staunchly supported the president's actions, rebuffing a steady stream of GOP challenges to stymie various EPA actions in recent years.

McConnell has positioned himself as the coal industry's champion and chief EPA foe in the Senate,

a role that he has played up in his reelection bid, reminding voters back home that the administration's regulatory priorities will do little to boost jobs in the coal industry.

While McConnell has had little luck advancing legislation to rein in the EPA's authority, his persistence in trying to force votes on agency regulations — particularly over the past few weeks — has put moderate Democrats who might support those measures in an awkward spot in this winner-take-all election year, much to Republicans' delight.

"I think people are scared of losing a big vote like the coal EPA" amendment, said [Richard C. Shelby](#) of Alabama, the ranking Republican on Senate Appropriations.

"Reid is going to protect the president and the environmental lobby, and a lot of the members probably don't want to vote either way that are running," Shelby added.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 062514 Clean Water Protection Rule Media Report - 18 items including Boxer concession on anti-EPA amendment, NR subcommittee news, and two congressional op-eds...  
**Date:** Wednesday, June 25, 2014 10:39:41 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)

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FYI.

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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

June 25, 2014

### News Coverage

**Blame game,** The Hill/News Bites, 06/25/14. Sen. Barbara Boxer (D-Calif.) said she'd be open to a 60-vote threshold for the anti-EPA amendment being pushed by Senate Minority Leader Mitch McConnell (R-Ky.), and that it's his fault the Senate appropriations package has been stalled. "What's derailing it is Sen. McConnell. He's always said that if anybody feels there is a controversial amendment they can get 60 votes, he's derailed it, because he won't do that," Boxer said. As for a vote on the anti-EPA amendment, Boxer said, "I don't mind at all, I've offered a 60-vote threshold."

**Fat Tire brewery pours out praise for EPA rule,** The Hill, 06/24/14. Lemley told the lawmakers in the House Natural Resources Committee's subpanel on water and power that the March proposal from the EPA and the Army Corps of Engineers would help ensure that water resources are properly protected and that beer breweries can operate.

-  
**House panel examines federal water rules,** The Durango (CO) Herald, 06/24/14. Not everyone at the hearing was against the measure. Andrew Lemley, a government-affairs representative for New Belgium Brewing Co. in Fort Collins said her company supports the EPA's rules, "Because, after all, beer is 90

percent water.” Lemley said the rules would restore “clear national protections against unregulated pollution” in the nation’s streams and rivers.

**Isakson, Chambliss Introduce Bill to Halt Expanding Federal Authority Over All U.S. Water,** Rome (GA) Newswire, 06/24/14. U.S. Senators Johnny Isakson, and Saxby Chambliss, joined 28 other senators in introducing legislation to stop the Environmental Protection Agency (EPA) from regulating nearly all private and state water in the United States. The Protecting Water and Property Rights Act of 2014 prevents the EPA and the Army Corps of Engineers (Corps) from finalizing their March 2014 proposed rule which would significantly expand federal authority under the Clean Water Act.

**Clean Water Act is Subject to Change,** WRGX-TV/Dothan, AL, 06/24/15. The new proposal that the EPA is trying to implement will put them in charge of “any waters,” including lakes and rivers, and this is what the farmers are concerned about. Having the EPA in charge of the water, could limit the water supply that farmers would be allowed to use on their crops, which in turn, could cause a huge loss in development for that year.

**Ag Groups Seek Clarity in EPA’s Water Rules,** KNEB Radio/Scottsbluff, NE, 06/24/15. Wyoming and many other states are concerned about EPA’s move to expedite the scientific review timeline “and the glaring lack of state involvement,” he said, as reasons for concern that EPA and the Army Corps of Engineers are “attempting to implement a policy decision that all connections between waters are ‘significant’ without regard to how much or how often they actually contain water or influence truly navigable waters.”

**Ag Concerns Dominate EPA Rule Change Presentation,** Magic Valley/ID, 06/25/14. Proposed federal rules to redefine which waters are covered under the Clean Water Act prompted agricultural concerns during a panel discussion Tuesday. The discussion capped a two-day conference by the Idaho Water Users Association focused on state water supply and conditions, pending legislation, the effects of climate change, water policy improvements and pending federal mandates.

**Environmental Measures to Turn Farmers Away from Conservation,** The Cattle Site, 06/25/14. Farmer exemption under the ‘interpretive rule’ of the Clean Water Act will expand the jurisdictional reach of the Environmental Protection Agency, according to the National Cattlemen’s Beef Association. Farmer and rancher liability is set to increase under the new ‘interpretive rule.’

**Officials oppose EPA proposal,** (Johnstown, PA) Tribune-Democrat, 06/24/14. “Once again the EPA’s overreach clearly intrudes into the lives of Pennsylvanians, attempting to place excessive burdens on commonwealth farmers,” said Shuster, chairman of the House Transportation and Infrastructure Committee. “Just like their recently proposed Waters of the U.S. regulation, this administration’s attempt to regulate every ditch and puddle with unworkable mandates will negatively impact our nation’s farmers and our economy with no environmental benefit.”

## **Opinion**

**Ranchers and farmers for new EPA water rule,** The Hill (op-ed), 06/24/14. Bill Eikenberry: To ranchers, farmers and rural communities that count on these bodies of water for drinking, fishing, swimming and irrigation, this ruling was arbitrary, confusing, and nearly impossible to follow. Without the clarifications offered by EPA and the U.S. Army Corps, vast miles of U.S. waterways critical to the health and livelihoods of rural America have been vulnerable to pollution and contamination. Bill Eikenberry is a third-generation Wyoming rancher and former associate state director of the federal Bureau of Land Management in Wyoming.

**Clean Water Act – House measure needs Senate support,** Bluefield (WV) Daily Telegraph, (editorial), 06/25/14. The bill introduced by Rahall and Gibbs aims to ensure adherence to proper permitting practices by “checking EPA’s ideological zeal to expand its authority,” Rahall said last week. Section 404 of the Clean Water Act governs the permitting program administered by the U.S. Army Corps of Engineers. Permits are necessary for dredge and fill activities in federal waters, including wetlands, and must be



obtained for a wide variety of activities, including construction and mining, according to Rahall's office.

**Unclear definition in new "waters" rule**, The Hill, (op-ed), 06/24/14. Rep. Bob Gibbs: EPA claims that the new rule is needed to 'clarify' the scope of federal jurisdiction. The agency also claims that no new waters would be under jurisdiction by the rulemaking and that normal farming activities would face no new regulatory burdens. However, after carefully evaluating the language in the rule and hearing from the regulated community, I am concerned that this appears to be a massive power grab by the federal government. Rep Gibbs is a Republican congressman from northeastern Ohio. He is chairman of the Transportation and Infrastructure Committee's Subcommittee on Water Resources and Environment, and also sits on the Agriculture Committee.

**EPA runs amok**, The Roanoke (VA) Times (op-ed), 06/25/14. Rep. Morgan Griffith: Our amicus brief, which is in support of the Farm Bureau's position, reads in part: "Agencies should not be allowed to seize virtually limitless power by simply positing an expansive statutory interpretation that is not expressly prohibited. Such an approach unfairly asks Congress to anticipate every possible contrary interpretation an agency could conceive in the future." Not only is there concern about the EPA's job-killing regulations, but many of us in Congress see a serious threat to the role of the various states in our federal system from an EPA that is dictating a wide array of policies to the states. Morgan Griffith is the congressman from the 9<sup>th</sup> District of Virginia.

## **Blogs/Social Media**

**Senate Action Comes Down Pipe to Block 'Onerous' EPA Water Grab**, PJ Media, 06/24/14. Senate Republicans launched a legislative effort to try to block the Environmental Protection Agency from issuing final "onerous" regulations that would expand its jurisdiction in the Clean Water Act to even include ponds and ditches on private property. In March, the EPA began a "robust" 90-day "outreach effort" to gather input in shaping a final rule, maintaining that the directive isn't groundbreaking but a clarification effort needed to clearly define streams and wetlands protection after Supreme Court decisions in 2001 and 2006. Critics, though, charged that the administration embarked on an unprecedented breach of private property rights without scientific basis.

NAHB First Vice Chairman Tom Woods' recent testimony on Capitol Hill against proposed changes to the Clean Water Act that could harm home building firms:

**<https://www.youtube.com/watch?v=IhZnjStLN7k>**



**[SJF MaterialHandling @SJF .com](#)** [3h](#)

Clean Water: Bad for Business? [bit.ly/1n0dkj0](http://bit.ly/1n0dkj0)



**[Legal Updates @LegalUpdates](#)** [8h](#)

EPA Proposes Change to **Clean Water Act** Rule and Definition of the Term "Waters of the U.S." [bit.ly/1quNogQ](http://bit.ly/1quNogQ) | by [@BBKlaw](#)



**High Country News** [@highcountrynews](#) 13h

Is the **Clean Water Act** under attack? policy wonks interested in big ag and water law, read on. via [@brcalvert](#) [hcne.ws/1iu1jny](https://hcne.ws/1iu1jny)

[Expand](#)

## Document 90

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: Polls: Latino support for Clean Water Protection Rule  
**Date:** Tuesday, June 24, 2014 3:30:18 PM  
**Attachments:** [FW NRDC Poll Illinois Latinos want the government to protect water from pollution \(corrected link\).msg](#)  
[FW NRDC Poll New Mexico Latinos want the government to protect water from pollution \(corrected link\).msg](#)  
[FW NRDC Poll Colorado Latinos want the government to protect water from pollution \(corrected link\).msg](#)  
[FW NRDC Poll Florida Latinos want the government to protect water from pollution \(corrected link\).msg](#)

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FYI.

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**From:** Waage, Melissa

**Sent:** Monday, June 23, 2014 10:10 AM

Here are the final releases sent this morning.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 062414 Clean Water Protection Rule Media Report - 19 items including CQ, The Hill, and E & E on House action, more from GOP MoCs on water rule...  
**Date:** Tuesday, June 24, 2014 10:39:54 AM  
**Attachments:** [image003.png](#)  
[image005.png](#)

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Tuesday, June 24, 2014 10:29 AM  
**To:** Waage, Melissa  
**Subject:** 062414 Clean Water Protection Rule Media Report - 19 items including CQ, The Hill, and E & E on House action, more from GOP MoCs on water rule...

# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

June 24, 2014

### **News Coverage**

**Energy Stalled in Senate, Accelerates in House**, Congressional Quarterly, (see below), 06/23/14. For now, the Senate Appropriations Committee continues with other funding bills, but election year attention and increased debate on energy and environment issues have rendered the Energy-Water measure possibly unworkable. That same Republican pressure to get a shot at amendments to block administration actions on carbon emissions and water rules could stifle already dim hopes of other energy-related items such as bills to approve the Keystone XL pipeline and the energy efficiency measure that stalled in May.

**On Tap Tuesday/WOTUS**, The Hill, 06/14/14. The House Natural Resources subcommittee on Water and Power will hold a hearing on the EPA's joint rule with the Army Corps of Engineers, known as the Waters of the U.S. rule, that seeks to redefine the federal government's jurisdiction for the Clean Water Act. The witnesses will represent a range of affected parties, including the National Water Resources Association, the State of Wyoming, Utah Farm Bureau Federation, the Associated Electric Cooperative Inc. and the New Belgium Brewing Co.

- **A House Full of Energy**, Congressional Quarterly, (see below), 06/24/14. Absent from Tuesday's House

Natural Resources hearing on proposed changes under the Clean Water Act ( [PL 95-217](#) ) will be administration witnesses. Chief of the U.S. Forest Service Tom Tidwell and Lowell Pimley, acting commissioner of the U.S. Bureau of Reclamation, were invited to testify but opted instead to send prepared statements. Perhaps they wanted to avoid the sort of [bipartisan shellacking](#) the administration took last week.

**[GOP subpanel eyes impacts of EPA, Forest Service proposals](#)**, E & E News, (see below), 06/23/14. House appropriators plus a group of senators are pushing legislative measures to block the Clean Water Act jurisdictional proposal. Supporters, however, are warning key lawmakers that they may face the wrath of fishermen and other sports advocates who support the proposal.

**[EPA extends comment period for controversial rulemaking](#)**, E & E News/Greenwire, (see below), 06/23/14. The "Waters of the U.S." rule has long been controversial on Capitol Hill with many lawmakers calling it an agency power grab. Environmental, conservation and sportsmen's groups, however, accuse critics of exaggerating its reach. Last week, House appropriators approved a spending bill with a rider to block the rulemaking. And the Senate Appropriations Committee punted its own energy and water spending bill fearing similar riders.

**[Sen. Toomey, Reps. Thompson, Perry, Barette, Shuster – Latest EPA Overreach Will Devastate PA Farmers](#)**, Gant Daily, 06/24/14. "Once again the EPA's overreach clearly intrudes into the lives of Pennsylvanians attempting to place excessive burdens on Commonwealth farmers. Just like their recently proposed Waters of the US regulation, this Administration's attempt to regulate every ditch and puddle with unworkable mandates will negatively impact our nation's farmers and our economy with no environmental benefit. I continue to stand beside my fellow Pennsylvanian colleagues to firmly oppose this unprecedented increase of EPA authority," said Shuster.

**[New Clean Water Rule: Beached Before Enactment?](#)**, Public News Service/WA, 06/24/14. It's federal budget time, and just as the Environment Protection Agency (EPA) and the U.S Army Corps of Engineers are in the middle of rule-making to clarify what is specifically covered by the Clean Water Act, there's a proposal in the nation's capitol to cut EPA funding.

**[Agribusiness: Senators intend to permanently stop EPA rule](#)**, WHOTV/Des Moines, IA, 06/24/14. Last week 30 Republican senators introduced legislation to prevent the Environmental Protection Agency from implementing its proposed Waters of the U.S. Rule. Kansas Senator Pat Roberts says the legislation prohibits the EPA Administrator and Army Corps of Engineers Secretary from finalizing the rule or attempting similar regulation in the future.

**[Granger trustees send letter of disapproval to the EPA](#)**, The (Medina, OH) Post, 06/24/14. Trustee Richard Pace said covering ditches under this process means the township would have to obtain a permit through the federal government any time officials felt the need to clean or maintain any of the ditches in the area. Currently, no paper work is required.

**[EPA pitch would harm landowners](#)**, Garden City (KS) Telegram, 06/23/14. The Finney County Farm Bureau wants our fellow Kansans to know the Environmental Protection Agency is attempting an unprecedented federal land grab that will hurt Kansas businesses and damage our fragile state economy.

**[Senators Introduce Legislation to Prevent Proposed EPA Water Rule](#)**, Southern Farm Network Today, 06/24/14. Kansas Senator Pat Roberts and 29 other Republican Senators introduced legislation to prevent the Environmental Protection Agency from implementing its proposed Waters of the U.S. rule. Agri-Pulse reports the Senators claim the rule would allow the agency to take over all private and state waters in the U.S. by expanding its jurisdiction under the Clean Water Act.

**[Republican U.S. Senators take aim at EPA proposed water rules](#)**, Albany (GA) Herald, 06/23/14. Georgia's U.S. senators, Saxby Chambliss of Moultrie and Johnny Isakson of Marietta, have joined with 28 other Republican lawmakers to introduce legislation that would prevent the federal Environmental Protection Agency from expanding its authority over "nearly all private and state water in the United States."

## Opinion

**Unclear definition in 'new' waters rule**, The Hill (op-ed), 06/24/14. Rep Bob Gibbs: This law created a partnership between the federal and state governments with specific limitations to enforce and implement the CWA. We must ensure that state's continue to enforce the CWA rather than a 'one-size fits all' policy that would result from this power grab by the federal government and erode at state's rights and sovereignty. I am pleased to hear that the agency has announced a 91-day extension to the public comment period for the proposed rule. I am hopeful EPA listens to the concerns of the American people and abandons its attempts to redefine the law. Gibbs has represented northeastern Ohio congressional districts since 2011. He is chairman of the Transportation and Infrastructure Committee's Subcommittee on Water Resources and Environment, and also sits on the Agriculture Committee.

**Ed Perry: Farm Bureau badly mistaken on reach of EPA's proposed water rule**, (Wilkes-Barre, PA) Times Leader, 06/23/14. Contrary to Shaffer's allegations, the EPA's rule does not regulate land-use activity around small streams and creeks; does not regulate ditches that carry water only when it rains; does not regulate the application of fertilizer to farm fields; does not require a permit for farming activities in areas that are now, and have been, farmed; and does not require a permit for new farms. But that is exactly what the 2003 and 2008 changes in the regulations have done. They have opened up millions of acres of wetlands and thousands of miles of headwater streams for development. These headwater systems are the foundation of our nation's fish and wildlife resources, and provide clean drinking water to more than one-third of Americans. So why on earth is the Farm Bureau advocating that we go back to the bad old days? Ed Perry spent 30 years with the U.S. Fish and Wildlife Service as an aquatic biologist working in the Clean Water Act regulatory program.

-

## Blogs/Social Media

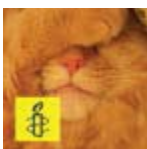
**Still Waters: EPA extends comment period on 'Waters of the U.S.' proposal**, The Westerner, 06/24/14. The American Farm Bureau Federation has garnered attention with its national "Ditch the Rule" campaign. In a parody of "Let It Go" from Disney's "Frozen," the Clay family of Missouri, Farm Bureau members, recently made mainstream media belting out the lyrics, "There's not water flowing, but the government doesn't care," while navigating a dry ditch on their farm by canoe.

**Daily Update: EPA Water Regulations**, AgToGo, 06/24/14. A group of 231 members of the House recently sent a letter to the EPA and the Army Corps asking them to withdraw the regulation. The group included almost the entire House Republican conference, as well as 19 Democrats. "Although your agencies have maintained that the rule is narrow and clarifies CWA jurisdiction, it in face aggressively expands federal authority under the CWA while bypassing Congress and creating unnecessary ambiguity," the lawmakers wrote."



**Helen Henderson** @EnviroPassion 13h

Take action! Tell Congress not to block @EPA from restoring #CleanWater Act protections [ow.ly/ymUwI](https://www.ow.ly/ymUwI) #environment via @americanrivers



**Chris C** @wininmad 9m

**Clean Water Act** at risk in the Senate - Baltimore Sun-Chesapeake Bay threatened by new rules [articles.baltimoresun.com/2014-06-18/new](http://articles.baltimoresun.com/2014-06-18/new) ... via [@ArchiveDigger](#)



**Surfrider Foundation** [@Surfrider](#) 16h

ACTION ALERT: Tell your Senator to vote NO on all dirty water amendments. Protect the **Clean Water Act**: [bit.ly/1szXMYX](http://bit.ly/1szXMYX)



**American Rivers** [@americanrivers](#) 11h

Construction & factory farm interests pressuring Congress to block [@EPA](#) from restoring **Clean Water Act** protections [ow.ly/ymUwl](http://ow.ly/ymUwl)

CQ NEWS  
June 23, 2014.

## Energy Stalled in Senate, Accelerates in House

By Randy Leonard, CQ Roll Call

While Senate appropriators tried to stay upbeat about funding hurdles last week, the impasse over a three-measure “minibus” raised the specter of regular disorder that pervaded congressional processes for the last several years.

For now, the Senate Appropriations Committee continues with other funding bills, but election year attention and increased debate on energy and environment issues have rendered the Energy-Water measure possibly unworkable. That same Republican pressure to get a shot at amendments to block administration actions on carbon emissions and water rules could stifle already dim hopes of other energy-related items such as bills to approve the Keystone XL pipeline and the energy efficiency measure that stalled in May.

Though chances for floor action may be slim, the Senate Energy and Natural Resources Committee is set to consider on Wednesday a bill ( S 1971 ) from ranking member Lisa Murkowski , R-Alaska, and former Chairman Ron Wyden , D-Ore., which would set up an agency committee to evaluate and identify issues related to the nexus between energy and water. This would include concerns over droughts and other water constraints in connection with fossil fuel production and electricity generation from steam and hydropower. Issues would also involve energy used to produce and treat water and wastewater.

The following chart from an Energy Department [report](#) last week quantifies the usage of energy and water in various sectors, with annual energy reported in quadrillion British thermal units, or Quads.

**Action Chamber.** Meanwhile, the House is looking to pass three energy measures next week in



addition to the Energy-Water spending bill set to be laid out by the Rules Committee on Tuesday, which likely won't see action until after the recess.

A bill ( HR 6 ) by Rep. Cory Gardner , R-Colo., would set a time frame for the Energy Department to review applications for liquefied natural gas exports and to report export destinations.

A measure ( HR 3301 ) from Fred Upton , R-Mich., would set up a permitting process for proposed oil and gas pipelines and electric transmission lines. The bill seeks to assert congressional authority that has so far been left to the executive branch, which evaluates such projects including the Keystone XL pipeline under presidential order.

Rules will also consider a catchall measure ( HR 4899 ) introduced last week that includes a number of previously introduced provisions, including state revenue-sharing, offshore oil and gas leasing, and onshore permit processes.

**Shooting for the Sun** . Not every energy measure can be expected to sail through the House. Last week several members announced [a bill](#) that would extend to 2018 the investment tax credit for renewable energy sources, including solar.

**Flammable Train Preparation.** North Dakota Democratic Sen. Heidi Heitkamp has introduced a bill to develop emergency response capabilities related to flammable train cargo, according to a [summary](#) from her staff.

“We must provide our small cities and local first responders with proper training and resources so that, if needed, they can respond appropriately to derailments, spills and other dangerous situations resulting from a crude-by-rail or hazardous material derailment in their communities,” the summary said.

**Only People Who Eat Should Care About Bees.** Senate Environment and Public Works Chairwoman Barbara Boxer , D-Calif., lauded President Barack Obama 's [action to examine reasons](#) for declines in bee and butterfly populations, including evaluating the effects of neonicotinoid pesticides.

“I am pleased that the White House is taking action to address the causes of pollinator declines in California and across the country,” Boxer said in a statement. “These actions will ensure that our federal agencies are working together to promote the health of our pollinator populations, which are so vital to our farmers and to California’s \$43 billion agricultural economy.”

**Will It Be Today?** Time is winding down for the Supreme Court to issue numerous decisions, including a ruling on EPA’s 2007 greenhouse gas emissions rule, before the current term ends. Lauren Gardner broke down the court’s consideration in February.

CQ NEWS  
June 24, 2014 – 6:00 a.m.

## A House Full of Energy

By Randy Leonard, CQ Roll Call

The House on Monday passed several energy bills and is expected to pass two more this week, in addition to readying its Energy-Water spending measure.

By voice votes the House passed a measure ( [HR 4092](#) ) to involve the Energy Department in school efficiency retrofit work and a bill ( [S 2086](#) ) to enable governors to extend emergency

declarations during heating fuel shortages. The Senate-passed bill would require the Energy Department to notify governors when heating fuel inventories drop below five-year averages for more than three consecutive weeks.

Before the House passes its bill ( [HR 6](#) ) to set a time frame for liquefied natural gas export permits, it will consider several of amendments, including a provision that would require the Energy Department to consider how exports would affect natural gas prices, manufacturing or jobs. The Rules Committee on Monday blocked an amendment from Rep. [Jim Bridenstine](#) , R-Okla., to remove restrictions on crude oil exports and limit the scope of environmental considerations for coal export facilities.

The House is also expected to pass a measure ( [HR 3301](#) ) to set up a permitting process for cross-border pipelines and transmission lines. A provision by Rep. [Henry A. Waxman](#) , D-Calif., would exclude existing applications from being considered in the new process. Waxman [called the bill](#) the “Zombie Pipeline Act” over fear that it would resurrect the Keystone XL pipeline if the administration again ruled against it. Other amendments offered by Democrats include requirements that environmental reviews cover the entirety of proposed projects and that exemptions be for only minor modifications.

**No Shows on Water Rules.** Absent from Tuesday’s House Natural Resources hearing on proposed changes under the Clean Water Act ( [PL 95-217](#) ) will be administration witnesses. Chief of the U.S. Forest Service Tom Tidwell and Lowell Pimley, acting commissioner of the U.S. Bureau of Reclamation, were invited to testify but opted instead to send prepared statements. Perhaps they wanted to avoid the sort of [bipartisan shellacking](#) the administration took last week.

**Give me 51, I’ll give you 51.** Debate over energy issues remained the sticking point in Senate action on spending bills, with Majority Leader [Harry Reid](#) , D-Nev., on Monday addressing the threshold for contentious amendments, such as a measure by Minority Leader [Mitch McConnell](#) , R-Ky., to block EPA carbon emissions regulations that stalled floor action on a three-measure spending package last week. Reid said he would lower to a simple majority the number of votes needed to end debate on McConnell’s amendment if the minority leader would do the same for Democrat-supported bills on federal minimum wage, energy efficiency, gun background checks and campaign contribution disclosures. There did not immediately appear to be a deal, but Humberto Sanchez [has more](#) on the non-action.

**Questions Where They Count.** Those on every side of the issues surrounding EPA’s newly proposed carbon emissions rules will have plenty to say over the next months, but arguably none will be as directly involved in the regional implementation as the members of the National Association of Regulatory Utility Commissioners, who plan to focus on the rules at their [quarterly meeting](#) in Texas next month. State and regional commissioners will hear from and no doubt talk to key administration members including White House climate guru Dan Utech, EPA’s acting head of air issues Janet McCabe and Acting Chairwoman of the Federal Energy Regulatory Commission Cheryl LaFleur.

Aside from a focus on the new rules, the group will consider topics including curtailing methane emissions and debate over a centralized electric grid versus distributed generation.

**Talking Climate to the Voters.** On Wednesday, one year after he kicked off his Climate Action Plan, President [Barack Obama](#) is expected to address the League of Conservation Voters at their annual dinner. He spoke at the event as a senator in 2006. Wednesday morning the group expects to hear from Energy Secretary Ernest J. Moniz and Interior Secretary Sally Jewell , who will no doubt make the case that the administration is doing everything it can to make environmental values a priority on national, state and local fronts.

Also on Wednesday, White House officials and Treasury Secretary Jacob J. Lew will meet with a

group, including billionaire climate activist Tom Steyer, to discuss the economic risks of climate change.

**Accounting for Renewable Funding.** The Department of Energy Inspector General found that the department had insufficient controls in place to ensure that funds it granted under the Energy Efficiency and Renewable Energy program were being properly used.

"Program officials approved and reimbursed approximately \$17 million to three recipients without reviewing detailed documentation to substantiate costs claimed," the office wrote in [a report](#) . A review of a sampling of expense claims found more than \$16,000 in questionable or unallowable costs.

*Will Weiss, Sarah Chacko, Melanie Zanona and Philip Brasher contributed reporting.*

### **GOP subpanel eyes impacts of EPA, Forest Service proposals**

Manuel Quiñones, E&E reporter

Published: Monday, June 23, 2014

House Republicans this week are likely to once again put U.S. EPA's proposal for clarifying the scope of the Clean Water Act under the microscope.

The House Natural Resources Committee's Water and Power Subcommittee is likely to discuss the proposed rule's impacts on the Bureau of Reclamation and the Power Marketing Administrations, which are in charge of selling hydroelectric power.

The panel said they want to hear about the impact on those power customers, as well as the impact of the Forest Service's recently announced groundwater directive.

That proposal, released last month and open to public comment, aims to strengthen protections for groundwater on 193 million acres of federal forests ([Greenwire](#), May 5).

Subcommittee Chairman Tom McClintock (R-Calif.), whose district includes significant amounts of federal forest land, has been outspoken about regulatory issues with respect to water, especially during his state's drought.

"We cannot demand that our people scrimp and save and stretch and ration every drop of water in their parched homes while at the same time, this government treats our remaining water supply so recklessly, so irresponsibly and so wastefully," he said recently, blasting water releases to protect fish.

Similarly the panel says this week's hearing "will examine recent actions by the Obama administration to undermine longstanding water rights and multiple water uses on and off federal lands."

House appropriators plus a group of senators are pushing legislative measures to block the Clean Water Act jurisdictional proposal.

Supporters, however, are warning key lawmakers that they may face the wrath of fishermen and other sports advocates who support the proposal.

**Schedule:** The hearing is Tuesday, June 24, at 10 a.m. in 1324 Longworth. **Witnesses:** TBA.

### **WATER POLICY:**

#### **EPA extends comment period for controversial rulemaking**

Manuel Quiñones, E&E reporter

Published: Monday, June 23, 2014

U.S. EPA and the Army Corps of Engineers are extending the comment period for proposed rulemaking to clarify the Clean Water Act's reach, according to a notice to be published in tomorrow's edition of

the *Federal Register*.

The comment period deadline will now move from July 21 to Oct. 20. "The agencies are extending the comment period in response to stakeholder requests for an extension," the notice says.

The "Waters of the U.S." rule has long been controversial on Capitol Hill with many lawmakers calling it an agency power grab. Environmental, conservation and sportsmen's groups, however, accuse critics of exaggerating its reach.

Last week, House appropriators approved a spending bill with a rider to block the rulemaking. And the Senate Appropriations Committee punted its own energy and water spending bill fearing similar riders.

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**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 062314 Clean Water Protection Rule Media Report - 26 items including CQ on House Energy Approps, EPA Science Advisory Board review per inside EPA and The Hill on CWA rule...  
**Date:** Monday, June 23, 2014 10:36:31 AM  
**Attachments:** [image002.png](#)

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# Clean Water Protection Rule Media Report

## Prepared for NRDC and Clean Water Action

June 23, 2014

### News Coverage

**House to Move on Energy Appropriations Bill**, Congressional Quarterly, (see below), 06/20/14. While the outlook for the Senate Energy-Water spending measure remains uncertain, the House is moving ahead with its bill. The House Rules Committee will consider the fiscal 2015 Energy-Water bill ([HR 4923](#)) at a meeting Tuesday, in preparation for floor action on the measure expected the week of July 7.

**EPA Science Advisors Plan Informal Review of CWA Jurisdictional Rule**, Inside EPA, (see below), 06/20/14. An EPA Science Advisory Board (SAB) panel is preparing to conduct an informal review of the "scientific and technical basis" for the administration's controversial proposal clarifying the reach of the Clean Water Act (CWA), a move that may help the agency address criticism that the measure lacks a sound scientific basis. Until now, the SAB panel has been limited to reviewing the agency's draft study on waters' connectivity – the scientific underpinning of the administration's proposed rule – prompting criticism from lawmakers and industry groups who say the proposed rule lacks a sound scientific basis because it was issued before the SAB panel's review of the connectivity report was finalized.

**Fears of EPA 'land grab' create groundswell against water rule**, The Hill, 06/21/14. The EPA is seeking to redefine what bodies of water fall under the agency's jurisdiction for controlling pollution. The scope of the final Clean Water Act (CWA) rule is of critical importance, as any area covered would require a federal permit for certain activities. The rule is facing a groundswell of opposition from lawmakers, who fear the EPA is engaged in a "land grab" that could stop farmers and others from building fences, digging ditches or draining ponds.

**'Ugly stepsister' Energy Bill Faces Dickey Prospects**, Congressional Quarterly, (see below), 06/20/14. Bipartisan opposition to the Obama administration's environmental regulations has rendered what was once the only energy-related legislative priority that could wind its way through both chambers politically

poisonous. Republicans John Hoeven of North Dakota and Mike Johanns of Nebraska had an amendment to stop the EPA and the Army Corps of Engineers from moving forward with a proposed rule clarifying the jurisdiction of the nation's marquee water pollution law ([PL 95-217](#)).

**The EPA Overreaches Again**, The (AEI) American, 06/23/14. The EPA maintains that the rule will affect only 1,300 acres nationwide, which fails to find a significant nexus with the truth. Of course, when every riparian area, floodplain, wetland, ditch, gully, and ephemeral rill is connected to the major U.S. rivers in a "significant" way, there is very little that falls outside the purview of the newly expanded CWA. I would guess my family's farm alone will have an additional 1,300 acres under EPA control.

**Some Democrats join GOP in criticizing wetland proposal**, Amador (CA) Ledger Dispatch, 06/22/14. Ranking committee Democrat Nydia Velazquez (D-N.Y.) also agreed that EPA did not document the impact of the rule on small businesses, and should. "Small businesses need a rule that works for everyone and not just a few," she said, noting some businesses, such as recreation, would gain. "With this in mind it is concerning that no regulatory flexibility analysis was performed.

**Minnesota farm leaders has problems with WOTUS rule**, WNAX Radio/Yankton, SD, 06/23/14. EPA, the U.S. Corps of Engineers and NRCS all claim voluntary conservation practices are exempt under the proposed rule. Paap says that's a negligent mischaracterization as most of those practices are already exempt under the Clean Water Act and don't really go far enough anyway in order to mitigate the rule or make it livable.

**Proposed Clean Water Act Rule**, WOWO Radio/Ft. Wayne, IN, 06/21/14. American Farm Bureau Federation Senior Director of Regulatory Affairs Don Parrish told lawmakers the EPA isn't content with regulating just water - they want to control land use - too. Parrish says the agency's overreach ignores the will of Congress and courts - and compounds farmers' problems by calling into question dozens of exemptions for basic farming techniques.

**Cass board wants to know more about amended "Water of the U.S." definition**, The (Walker, MN) Pilot-Independent, 06/21/14. Cass County commissioners want to learn more about a proposed federal rule that would amend the definition of "Waters of the U.S." under the Clean Water Act and expand the range of waters that fall under federal jurisdiction. It could potentially increase the number of county-owned ditches under federal jurisdiction. Once a ditch is under federal jurisdiction, the Section 404 permit process (for ditch maintenance like cleaning) can become extremely cumbersome, time-consuming and expensive.

**Says Forest Service policy another example of federal 'water'**, Pueblo Chieftain, 06/20/14. Water users in Colorado already are nervous about increased scrutiny by the Environmental Protection Agency and Army Corps of Engineers under proposed rules that regulate nearly every waterway as waters of the United States. Those rules have been proposed to clarify federal authority after conflicting Supreme Court decisions.

**Senators Introduce Bill to Halt EPA Takeover of Water**, politicalnews.me, 06/21/14. U.S. Senators John Barrasso (R-WY), David Vitter (R-LA), Mike Enzi (R-WY), Pat Roberts (R-KS), Roy Blunt (R-MO), Mike Johanns (R-NE), Ted Cruz (R-TX) and 23 other Senators introduced legislation to stop the Environmental Protection Agency (EPA) from taking over all private and state water in the United States. The Protecting Water and Property Rights Act of 2014 prevents the EPA and the Army Corps of Engineers (Corps) from finalizing their March 2014 proposed rule which would significantly expand federal authority under the Clean Water Act (CWA).

## **Opinion**

**Mikulski must stand up for clean water**, Baltimore Sun, (letter to the editor), 06/22/14. William Fadely: EPA's proposal is based on sound science and will better protect rivers, bays and lakes, our drinking water sources, and will reduce flooding and support habitat for fish and wildlife. In Maryland this means millions of dollars in our economy and hundreds of thousands of jobs, too. William Fadely is Baltimore program organizer for Clean Water Action.



**Water categories included in EPA's 'Waters of the US,'** The Prairie Star (op-ed), 06/21/14. [Daryll E. Ray and Harwood D. Schaffer](#): The term "traditional navigable waters" includes "all waters that are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide." In addition, traditional navigable waters include all waters that have been, currently are, or are susceptible to "being used for commercial navigation, including commercial waterborne recreation (for example, boat rentals, guided fishing trips, or water ski tournaments)." Daryll E. Ray holds the Blasingame Chair of Excellence in Agricultural Policy, Institute of Agriculture, University of Tennessee, and is the Director of UT's Agricultural Policy Analysis Center (APAC). Harwood D. Schaffer is a Research Assistant Professor at APAC.

**Bill Kuisle not sure wetlands and stuff totally worth it,** Bluestem Prairie, 06/20/14. After this week's record-busting rainfall and flooding, we have to wonder about a guy who opposes the cost of these deluge mitigation measures. The last thing lakes, rivers and creeks needed was an additional rush of water from a road or drained wetland upstream, much less the nutrients and chemicals their absence would add to the lakes, rivers and Gulf of Mexico. Moreover, we're curious why [wet detentions ponds](#), which have been used widely across the United States for many years, are suddenly an emblem of Big Government, rather than a sensible best management practice that helps keep an upstream road's run-off out of the downstream neighbor's basement, while deterring flooding ditches and creeks from widening and hauling off farmers' fields.

## **Blogs/Social Media**

**House panel takes aim at 'interpretive rule' in EPA Waters of U.S. plan,** theWesterner.blogspot, 06/21/14. He said the interpretive rule made him reluctant to move forward with any voluntary conservation practices. "If you tell a farmer he has to comply with NRCS standards or apply for a (CWA Section 404) permit, he hasn't been given any real choice at all," Fabian said. NCBA and other agricultural organizations have asked EPA and the Army Corps of Engineers to withdraw their proposed definition of "waters of the U.S.," as well as the interpretive rule.

**EPA rule will upend farming and livelihoods, Farm Bureau says,** idahofarmbureau.blogspot, 06/20/14. The EPA isn't content with regulating just water – they want to control land use, too, even though Congress and the Courts have already told them no," Don Parrish, Senior Director Regulatory Affairs at the American Farm Bureau Federation said.

**EPA Overreach Limits Farmers Freedom to Operate**

<https://www.youtube.com/watch?v=wcBjegRKILs>

**Rep. Crawford Questions EPA, U.S. Army Corps of Engineers**

<https://www.youtube.com/watch?v=z24pjWOe7dQ>

**Ditch the Rule** by [farmbureautv](#)

1 day ago

<https://www.youtube.com/watch?v=PdvHmp4r7rY>



**Progressive Push** [@progressivepush](#) Jun 22

GOP is for Polluters...GOPers spread rumors of EPA 'land grab' to stop **Clean Water Act**  
[#UniteBlue](#) [thehill.com/policy/energy-](#)... via [@TheHill](#)

 [The Hill](#)

## [Fears of EPA 'land grab' create groundswell against water rule](#)

[Lawmakers are up in arms over a proposal they fear could give the EPA expansive powers.](#)

**Iowa Enviro. Council** [@Iowa\\_Env](#) 3h

Public support for a strong **Clean Water Act** is needed to ensure Iowa's clean water future  
[wp.me/p23ACE-v1](#)

**Progressive Push** [@progressivepush](#) 4h

GOP is for Polluters...GOPers spread rumors of EPA 'land grab' to stop **Clean Water Act**  
[#UniteBlue](#) [thehill.com/policy/energy-\\_\\_\\_\\_\\_](#) via [@TheHill](#)



**Aric Caplan** [@CaplanComms](#) 20h

Bringing streams & wetlands under the umbrella of **Clean Water Act** will help protect drinking water for 117M people. [x.co/4sw1b](#)

## [Closing Clean Water Act Loophole Will Protect Drinking Water and...](#)

[Peter Lehner is executive director of the Natural Resources Defense Council \(NRDC\). At the same time, the wetlands and small streams that fed our drinking water supplies were vulnerable to being...](#)



Chesapeake Bay Program  
A Watershed Partnership

**ChesapeakeBayProgram** [@chesbayprogram](#) 4h

[.@TroutUnlimited](#) calls on [#ChesapeakeBay](#) anglers to defend **Clean Water Act** from "misguided attacks." [ow.ly/ydQOb](#)

## **House to Move on Energy Appropriations Bill**

By [Randy Leonard](#)

While the outlook for the Senate Energy-Water spending measure remains uncertain, the House is moving ahead with its bill.

The House Rules Committee will consider the fiscal 2015 Energy-Water bill ([HR 4923](#)) at a meeting Tuesday, in preparation for floor action on the measure expected the week of July 7.

## **EPA Science Advisors Plan Informal Review Of CWA Jurisdiction Rule**

Inside EPA/ Posted: June 20, 2014

An EPA Science Advisory Board (SAB) panel is preparing to conduct an informal review of the "scientific and technical basis" for the administration's controversial proposal clarifying the reach of the Clean Water Act (CWA), a move that may help the agency address criticism that the measure lacks a sound scientific basis.

Until now, the SAB panel has been limited to reviewing the agency's draft study on waters' connectivity – the

scientific underpinning of the administration's proposed rule – prompting criticism from lawmakers and industry groups who say the proposed rule lacks a sound scientific basis because it was issued before the SAB panel's review of the connectivity report was finalized.

But during a June 19 webinar, Amanda Rodewald, of Cornell University, chair of the SAB panel, said the group is preparing to conduct an informal review of the rule. Rodewald added that the review – which was requested by the chartered SAB – would be "lower key" than a full peer review and would not result in a formal report, but rather would examine whether the regulatory proposal "aligns with our understanding" of the relevant science.

SAB has "asked us for a review of the scientific and technical basis of the proposed rule," she said.

Rodewald said that a date has not yet been set for the review, but that panel members have been polled as to their availability for a call to discuss the proposed rule in August.

Rodewald's comments came as the panel moved closer to wrapping up its review of the connectivity study, though the panelists continue to grapple with providing advice on how EPA should measure the "significance" of any connection between waterbodies – the basis for asserting jurisdiction.

On the June 19 webinar, they debated how EPA should weight effects on downstream waters' chemical, physical and biological integrity as part of the gradient approach they are developing for EPA to determine the significance of any nexus.

Both the proposed rule and the draft connectivity study are aimed at helping clarify the water law's reach over smaller waters in the wake of Supreme Court rulings that created uncertainty about when such waters are jurisdictional.

In *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers*, the high court in 2001 barred officials from citing the presence of migratory birds as the sole basis for asserting jurisdiction over wholly intrastate waters.

And in *Rapanos v. United States*, the justices split over what test to use for determining jurisdiction. Justice Antonin Scalia ruled in the court's plurality decision that only "relatively permanent waters" that hold a "continuous surface connection" to a traditionally navigable water can be considered jurisdictional. By contrast, Justice Anthony Kennedy ruled in a concurring opinion that waters that share a "significant nexus" to navigable waters can be regulated under the water law.

The proposed rule generally seeks to adopt the Kennedy test, defining "significant nexus" as a connection that "significantly affects the chemical, physical, or biological integrity" of a jurisdictional waterbody.

### **Significant Nexus**

Using that standard, the proposal seeks to assert default jurisdiction over all tributaries as well as wetlands and waters located in floodplains and riparian areas. But the agency has concluded that there is inadequate data to support a blanket finding that "unidirectional" waters, or waters and wetlands outside of riparian and flood zones, share a connection to downstream waters.

But the measure is drawing significant criticism in part because officials have not adequately defined when waters have a "significant" nexus that allows them to be considered jurisdictional. The critics say that EPA's proposal does not clearly address how regulators plan on distinguishing all nexuses or connections from "significant" ones.

Faced with the concerns, Deputy EPA Administrator Bob Perciasepe [said recently](#) that federal officials will have to come up with a way to determine whether smaller waters have a "significant" nexus to larger navigable waters and the SAB panel could provide the agency with a plan for developing such an approach.

The panel is urging EPA to create a "graded" or "gradient" approach to determining connectivity, saying that EPA's draft report takes a "binary" approach that appears to indicate that any connectivity must significantly affect the biological, physical or chemical integrity of downstream waters.

In their June 5 draft recommendations, the panel writes, "Although certain systems, such as headwater streams and tributaries and floodplain wetlands are known to exhibit a level of connectivity that is ecologically meaningful even at the lower end of the gradient, the frequency, duration, predictability, and magnitude of connectivity will ultimately

determine the consequences to downstream waters."

During the call, panel members discussed how to further narrow the approach to measure the impacts of the biological, physical, or chemical effects, and whether one component should be more heavily weighted than others, such as physical connections.

Emily Bernhardt, of Duke University said, "If we have no connectivity other than a biological one, it's not clear how to know whether it's significant enough to affect downstream integrity."

Lucinda Johnson, of University of Minnesota, Duluth, suggested that the SAB panel's report discuss the information relevant to impacts on ecological activity and leave flexibility for the agency to make a "value judgment" on the criteria needed to determine whether connectivity is sufficiently important on the graded scale.

Mark Murphy, of Hassayampa Associates, pointed out that from a regulatory perspective, EPA often allows for "de minimus" impacts below a certain pre-determined threshold, and that the SAB recommendations should be flexible enough on the criteria to allow EPA to determine what that threshold should be and ensure it is "grounded in science."

### **Big Development**

But the more significant development was the panel's decision to review the regulation.

Some aspects of the SAB panel's review of the connectivity study have already touched on elements of the rulemaking, such as suggestions for categorizing those smaller waters located outside of floodplains for which jurisdiction or connectivity would be assessed on a case-by-case basis, but largely the panel sought to focus on the draft report rather than the related policy.

For example, during the June 19 call, panel members discussed how to clarify that while the scientific data on downstream connectivity of some waters and wetlands outside of floodplain and riparian areas may be robust enough to support a more definitive statement than EPA's findings conveyed, there is enough uncertainty in some types of waters and wetlands to merit a case-by-case approach as the agency suggests.

In its June 5 draft revised recommendations, the panel rejects the agency's finding that it lacks adequate scientific data for making blanket jurisdictional determinations that waters and wetlands, such as prairie potholes or playa lakes, located in non-floodplain areas are connected to navigable waters and are therefore jurisdictional.

"To the contrary, the SAB finds that the scientific literature provides ample information to support a more definitive statement (i.e., numerous functions of 'unidirectional' wetlands have been shown to benefit the physical, chemical, and biological integrity of downgradient waters) and recommends that the EPA revise the conclusion to focus on what is supported by the scientific literature and articulate the specific knowledge gaps that must be resolved (e.g., degree of connectivity, analyses of temporal or spatial variability)," the draft report said.

But during the call, panelists appeared to hedge on the language, particularly with regard to what criteria to use to measure the degree to which a waterbody may have an effect on the "physical, chemical, or biological integrity" of downstream waters traditionally regulated under the CWA.

Bernhardt, of Duke University, suggested language reflecting that "uncertainty is restricted to cases with only a biological connection or minimal groundwater connection," and David Allan, of University of Michigan, suggested emphasizing for which types of waters and wetlands there may be uncertainty and identifying where additional research may be needed.

EPA earlier this month extended by more than 90 days the deadline for comment on the proposed rule, from July 21 until Oct. 20 in response to hundreds of comments urging the extension in part to better align the rulemaking with the completion of the connectivity review. -- *Bridget DiCosmo* ([bdicosmo@iwppnews.com](mailto:bdicosmo@iwppnews.com))

## **'Ugly Stepsister' Energy Bill Faces Dickey Prospects**

By [Lauren Gardner](#), Congressional Quarterly

Bipartisan opposition to the Obama administration's environmental regulations has rendered what was once the only energy-related legislative priority that could wind its way through both chambers politically poisonous.

The Senate Appropriations Committee pulled the spending bill that funds the Energy Department and the Army Corps of Engineers from its full committee markup yesterday after it became clear that Senate Minority Leader Mitch McConnell, R-Ky., would force a vote on an amendment that likely would have killed the EPA's proposed limits on greenhouse gas emissions from existing power plants.

Energy-Water Chairwoman Dianne Feinstein, D-Calif., questioned the germaneness of the amendment, which she and full committee Chairwoman Barbara A. Mikulski said had caused the White House to threaten a veto. But that wasn't the only potential amendment that made Democratic leadership nervous, and that likely would have killed the bill all the same.

Republicans John Hoeven of North Dakota and Mike Johanns of Nebraska had an amendment to stop the EPA and the Army Corps of Engineers from moving forward with a proposed rule clarifying the jurisdiction of the nation's marquee water pollution law ([PL 95-217](#)). That proposal also would have likely siphoned off some moderate and electorally vulnerable Democrats — such as Mary L. Landrieu of Louisiana — from the leadership stance against.

**Mikulski lumped Energy-Water** in with three other spending measures – Labor-HHS, Financial Services, and perennial blog favorite Interior-Environment – that she called the “ugly stepsisters” of the appropriations process. For a bill that was once a relatively easy bipartisan sell, that's a long way to fall.

This development could signal even greater difficulty in the future for energy and environmental proposals to hitch rides onto their relevant spending bills. And this week's events only bolstered GOP arguments that Democratic leadership is unwilling to let their members cast tough votes. Instead of letting the water rule effort force Democrats to take an uncomfortable vote, McConnell got the election-year victory by way of the “war on coal.”

Wyoming Republican Sen. John Barrasso introduced legislation Thursday to preclude the water rule's finalization. And CQRC's Philip Brasher [reports](#) that House Democrats blasted the proposed regulation and its impact on farmers during a Thursday hearing.

“I'm an attorney. The idea that that was intended to provide clarity, I can't see how that's been effective,” said New Hampshire Democrat Ann McLane Kuster, one of the more liberal members of the Agriculture Committee.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 062014 Clean Water Protection Rule Media Report - 18 items including E & E, CQ on spending bills, The Hill reports on Senators trying to stop CWA rule...  
**Date:** Friday, June 20, 2014 10:48:47 AM  
**Attachments:** [image002.png](#)

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# Clean Water Protection Rule Media Report

## Prepared for NRDC by The Hastings Group

June 20, 2014

### News Coverage

**Despite budget deal, spending bills challenged by amendment disputes**, E and E News, (see below), 06/20/14. EPA's recently unveiled rule to reduce greenhouse gas emissions from the power sector, and its ongoing efforts, in conjunction with the Army Corps, to expand the Clean Water Act's jurisdiction are likely to be especially hot topics for appropriations riders, should the opportunity to offer them present itself.

**Grim Outlook for Spending Bills After Senate Suspends 'Minibus' Debate**, Congressional Quarterly, (see below), 06/19/14. The \$34.2 billion Energy-Water spending title had moved through subcommittee without objection on Tuesday and was scheduled for a full committee markup on Thursday morning. But the delay allows Democrats to sidestep uncomfortable votes on several likely GOP amendments on Obama administration regulations aimed at regulating carbon emissions from existing power plants and sharpening the jurisdiction of the Clean Water Act ([PL 95-217](#)).

**30 Senators sponsor bill to stop EPA's water rule**, The Hill, 06/19/14. "After already calling on the EPA and Army Corps to withdraw the proposed rule, I want to make sure that the expansion of regulatory jurisdiction over 'Waters of the United States' is shelved for good," Roberts said. "This straightforward legislation prohibits the Administrator of the Environmental Protection Agency and the Secretary of the Army from finalizing the rule or trying a similar regulation in the future."

**Conservation groups say lawmakers are meddling with Clean Water Act**, Midland (MI) Daily News, 06/20/14. Scott Kovarovich of the Izaak Walton League of America called the proposed rules "the best opportunity in a decade to restore CWA protection" to important wetlands and ephemeral streams.

**Senate committee delays Clean Water Act rider**, Bozeman (MT) Daily Chronicle, 06/19/14. At 6 p.m.



Wednesday, after discussion on the Energy and Water Development appropriations bill revealed that committee members were too far apart on two proposed environmental policy riders, Appropriations Committee Chairwoman Barbara Mikulski, D-Md., canceled the mark-up and possible vote scheduled for Thursday. The subcommittee approved its bill without the riders on Tuesday.

**Subcommittee Examines Impact of EPA Water Rule on Agricultural Producers**, Southeast AgNet, 06/19/14. Today, Rep. Glenn 'GT' Thompson, Chairman of the House Agriculture Committee's Subcommittee on Conservation, Energy, and Forestry, held a public hearing to review the interpretive rule regarding the applicability of Clean Water Act (CWA) agricultural exemptions. "There is growing concern the newly proposed rule released by the Environmental Protection Agency and the U.S. Army Corps poses a grave threat to the economic vitality and ecological health of our farming communities," said Chairman Glenn 'GT' Thompson (R-PA-05). "The Administration has argued this rule is intended to eliminate ambiguity and offer greater protections for producers and landowners, when in fact it will create new regulatory burdens, more ambiguity, and less certainty.

**Senators' Bill Aims to Block EPA Waters of the U.S. Rule**, Farm Futures, 06/19/14. "The Obama EPA is trying every scheme they can think of to take control of all water in the United States," said Protecting Water and Property Rights Act of 2014 author Sen. John Barrasso, R-Wyo, said in a press statement. "This time, their unprecedented federal water grab is in the form of a rule that will hurt family farms, ranches, and small businesses by imposing outrageous permitting fees and compliance costs."

**Keith Good: Legislators Blast EPA's 'Waters of the U.S. Rule' at Hearing**, AgFax, 06/20/14. "Robert Bonnie, USDA's undersecretary for Natural Resources and Environment, testified Thursday before the House Agriculture Subcommittee on Conservation, Energy and Forestry in a contentious hearing in which House members from both parties criticized the perceived federal 'land grab.'"

**Johanns Joins Other Senators to Block EPA Proposed Water Rules**, KNEB Radio/Scottsbluff, NE, 06/19/14. "This proposal amounts to a massive power grab by EPA, which has demonstrated time and again that it is out of touch and out of control," Johanns said. "Imposing more regulatory burdens on American families, farmers and job creators is the last thing we need from an Administration that has repeatedly pushed the envelope beyond congressional authority. EPA needs to scrap this proposed rule and refocus its efforts within the boundaries set by Congress."

**Activists say state's waterways are a 'polluter's dumping ground'**, Pittsburgh City Paper, 06/19/14. PennEnvironment and Clean Water Action cited the report to promote restoration of federal Clean Water Act protections — protections the group says have been lost over the years to court rulings in suits brought by polluters. Because of those rulings, said Williams, 59 percent of Pennsylvania rivers and streams, and drinking water for some eight million state residents, are "at risk of having no protection from pollution" under the Clean Water Act. The U.S. EPA is currently considering restoring these protections to many of the now-unprotected waterways it originally covered.

**Pennsylvania Cattleman Urges EPA to Withdraw Anti-Conservation Rule**, Farms.com, 06/20/14. Coupled with the proposed rule expanding the jurisdictional reach of the EPA and the Corps under the Clean Water Act, the interpretive rule will increase liability for farmers and ranchers. For property owners like Fabin, the ephemeral streams, ponds and ditches found across their pastures would fall under the EPA and the Corps' jurisdiction, and would require permits for any activities taking place on the land.

**Interpretive rule could erode conservation advancements**, Feedstuff, 06/19/14. For property owners like Fabin, the ephemeral streams, ponds and ditches found across their pastures would fall under the Environmental Protection Agency and Army Corps of Engineers' jurisdiction, and would require permits for any activities taking place on the land. While the agencies have exempted 56 farming and ranching practices, as long as they meet the specific Natural Resource Conservation Service standards, any deviation from these standards can result in fines of up to \$37,500 per day.

## **Opinion**

**EPA's proposed "Waters Rule" is unworkable**, (Hamilton, MT) Ravalli Republic, (op-ed), 06/19/14. Frank Priestly: Under this proposed rule, farmers, ranchers and every other landowner across the countryside will



face a tremendous new roadblock to ordinary land use activities. This is not just about the paperwork of getting a permit to farm, or even about having farming practices regulated. The fact is there is no legal right to a Clean Water Act permit – if farming or ranching activities need a permit, EPA or the Army Corps of Engineers can deny that permit. Frank Priestly is president of the Idaho Farm Bureau.

**The EPA is America's Other Enemy**, Tea Party Nation Forum (op-ed), 06/19/14. Alan Caruba: In addition to implementing President Obama's "war on coal" that is depriving the nation of coal-fired plants that provide electricity, the EPA has announced a proposed rule titled "Definition of 'Waters of the United States' Under the Clean Water Act", redefining, as Ron Arnold of the Center for the Defense of American Enterprise reported in the Washington Examiner "nearly everything wet as 'waters of the United States or WOTUS—and potentially subject us all to permits and fines." Alan Caruba is an American public relations counselor and freelance writer who is a frequent critic of environmentalism.

## **Blogs/Social Media**

**Johanns Acts to Block EPA Power Grab**, Chad Moyer Blogspot, 06/19/14. "This proposal amounts to a massive power grab by EPA, which has demonstrated time and again that it is out of touch and out of control," Johanns said. "Imposing more regulatory burdens on American families, farmers and job creators is the last thing we need from an Administration that has repeatedly pushed the envelope beyond congressional authority. EPA needs to scrap this proposed rule and refocus its efforts within the boundaries set by Congress."



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Is there anything #EPA won't regulate sooner or later? [bit.ly/1IEYLSe](http://bit.ly/1IEYLSe) Anything? #copolitics #teaparty #tcot



**NE-MW Institute** @NEMWUpperMiss 1h

House Ag Committee members challenge USDA role in proposed **Clean Water Act** rule as Senators draft bill to block it [ow.ly/yfVvKM](http://ow.ly/yfVvKM)

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**Trout Unlimited** @TroutUnlimited 22h

We won. You won. Thanks for standing up for the #CleanWaterAct [bit.ly/1nkuTrs](http://bit.ly/1nkuTrs) @WhiteHouse @SenateApprops #flyfishing #TU



**Great Lakes** @healthylakes 22h

.@SenCarlLevin the #GreatLakes are protected by @EPA's #CleanWater rule. Keep them safe-- oppose dirty water riders! [bit.ly/UgsiaW](http://bit.ly/UgsiaW)

## Despite budget deal, spending bills challenged by amendment disputes

Nick Juliano and Elana Schor, E&E reporter

Published: Friday, June 20, 2014

When it comes to funding some of the Obama administration's most controversial agencies, agreeing on how much money to give them has proven to be the easy part.

Last year's two-year budget deal was supposed to mark a return to "regular order" in the annual appropriations process -- compared to previous years of intense wrangling over how much to spend that resulted in a series of kick-the-can continuing resolutions before the government finally shut down for the first time in decades.

But the deal has managed in some instances to shift partisan showdowns toward policy and procedural issues that go beyond just how much the government should spend, creating continued gridlock over measures to fund agencies like U.S. EPA, the Interior Department, the Army Corps of Engineers and the Department of Energy.

The Senate Appropriations Committee yesterday abandoned plans to mark up an energy and water spending bill, fearing an amendment targeting Obama administration climate rules that the White House said would lead to its veto ([Greenwire](#), June 19). The bill is unlikely to return, although Democratic committee leaders said they would keep working to try to find a path forward.

Getting a bill out of committee is no guarantee of success, especially in the Senate's poisonous atmosphere. Also yesterday, a \$126 billion "minibus" to fund the Departments of Agriculture, Transportation and Commerce and a number of other agencies fell apart amid yet another partisan showdown over amendment procedure.

Senate Majority Leader Harry Reid (D-Nev.) sought a deal that would allow Republicans to offer amendments so long as they would need 60 votes to pass -- the de facto threshold for virtually all legislation that moves through the upper chamber. Republicans, who routinely use filibusters that require 60 votes to break, did not go along with the deal ([E&ENews PM](#), June 19).

A House markup earlier in the week of its energy and water spending bill went much more smoothly, although it remains to be seen when or if it would hit the floor. A GOP aide said it would not be on next week's agenda.

Lawmakers and aides from both parties say there is virtually no chance the bill to fund Interior and EPA makes it out of committee in either chamber, a replay of last year when even House Republicans shied away from putting the bill in front of the full Appropriations Committee because of the massive number of policy riders lawmakers would try to attach to it.

"We will not get it across the finish line is my guess," said Rep. Jim Moran (D-Va.), the ranking member of the Interior-environment subcommittee. "Because I don't think [Subcommittee Chairman Ken] Calvert [R-Calif.], despite his best efforts, is going to be able to keep the legislative riders off of it, and that is what stopped it the last two years."

EPA's recently unveiled rule to reduce greenhouse gas emissions from the power sector, and its ongoing efforts, in conjunction with the Army Corps, to expand the Clean Water Act's jurisdiction are likely to be especially hot topics for appropriations riders, should the opportunity to offer them present itself.

Rep. Mike Simpson (R-Idaho), chairman of the Interior-environment subcommittee before switching to lead energy and water last fall, said in an interview yesterday that he expects fiscal 2015's spending bill to include language halting the agency's power plant emissions limits -- but he agreed that the measure might make it to a markup in the full committee but had a slim chance of reaching the floor.

Rep. Lee Terry (R-Neb.), a senior Energy and Commerce Committee member closely involved in oversight hearings on the EPA greenhouse gas proposal, echoed that prediction.

"I completely expect that to happen," Terry said of an appropriations rider blocking the regulation.

Asked if Republicans could suffer political blowback by allowing the White House to hammer them over a possible government shutdown, Terry slammed EPA's rule as economically devastating and added that "I think we win" by challenging it.

House Appropriations Chairman Hal Rogers (R-Ky.), whose coal-rich state is a locus of resistance to EPA, declined to tip his hand on the committee's plans for the power plant rule in a brief interview, saying only that "we'll see" what the bill would include.

Democrats are not waiting to tee off on their opponents. House Minority Leader Nancy Pelosi's (D-Calif.) office yesterday highlighted the looming emergence of an appropriations rider on the greenhouse gas rule in a memo to reporters.

"Rather than threatening another careless shutdown, House Republicans should stop dodging the existing climate peril and work with House Democrats to pass legislation essential to the American people," Pelosi's aides wrote.

White House spokesman Matt Lechrich stopped short of referencing a veto threat that most would expect to greet an anti-EPA spending bill, declining to "speculate right now" but pointing to senior adviser John Podesta's recent remarks on the topic.

"They'll find various ways, particularly in the House, to try to stop us from using the authority we have under the Clean Air Act" to limit emissions, Podesta told reporters last month. "All I would say is that those have zero percent chance of working."

June 19, 2014; Updated 3:28 p.m.

## **Grim Outlook for Spending Bills After Senate Suspends 'Minibus' Debate**

By Tamar Hallerman, CQ Roll Call

The Senate suspended debate on a package of spending bills Thursday, leaving the fate of this year's appropriations process very much in doubt.

The long shadow of the November elections appears to have neutralized much of the political momentum for appropriations bills that had built up since the budget deal late last year.

Majority Leader [Harry Reid](#), D-Nev., effectively pulled the \$126.2 billion spending package ([HR 4660](#)) from the floor after Republicans and Democrats were unable to reach a deal on amendments.

"We thought we had a UC deal," [Richard C. Shelby](#) of Alabama, the ranking Republican on the Appropriations Committee, told CQ Roll Call Thursday. "Our people had said, 'Let's go to UC,' regular order. And then the Democrats came back ... from the majority leader's office saying they want a 60-vote threshold on any amendments. So we said no. We're at an impasse right now."

He added, "I think they're scared of losing a big vote."

Appropriations Chairwoman [Barbara A. Mikulski](#) said that she was "sad" about what just happened on the floor.

"I would hope that at the end of today we can figure out how to have another day" on the floor, the Maryland Democrat added.

Mikulski said the Senate has to arrive at a set of "rules for the road" to take up the bills. "This day will come to an end but I really hope that the appropriations [bills] coming to the floor doesn't die today."

[Lamar Alexander](#), R-Tenn., commended Mikulski for her efforts and put the blame for the inaction on the demand for a 60-vote thresholds on amendments, which he said is not the norm. Reid said he's

willing to listen to other ideas from Republicans.

Utah Republican [Orrin G. Hatch](#) asked if Democrats believe protecting their side from the election is more important than legislating.

"This is pathetic. I've never seen anything like it," he said.

Several Republicans and Democrats said on the floor that they still want to find a way forward, but it's not clear whether that will be possible.

The bill is technically still available for floor debate. The Senate did move to proceed to the spending bill, but quickly moved on to bring up another, unrelated bill ([S 2363](#)).

The serious setback on the floor follows another blow to the fiscal 2015 appropriations process Wednesday night, when the Appropriations Committee said it would punt on the markup of the traditionally noncontroversial Energy-Water spending bill, the second such delay in a week.

Mikulski said Thursday that she decided to postpone the committee's planned markup in consultation with Reid and subcommittee Chairwoman [Dianne Feinstein](#), D-Calif., because the White House was going to threaten to veto the measure. That was because of an expected amendment from Minority Leader [Mitch McConnell](#), R-Ky., that would have effectively blocked the EPA's recently announced carbon standards for existing power plants.

Last week, the panel delayed a planned markup of the more controversial Labor-HHS-Education measure.

The \$34.2 billion Energy-Water spending title had moved through subcommittee without objection on Tuesday and was scheduled for a full committee markup on Thursday morning.

But the delay allows Democrats to sidestep [uncomfortable votes](#) on several likely GOP amendments on Obama administration regulations aimed at regulating carbon emissions from existing power plants and sharpening the jurisdiction of the Clean Water Act ([PL 95-217](#)).

"We're not here to debate global warming" on an appropriations bill, Mikulski said during the full committee markup of two other bills that was originally going to include the Energy-Water bill. "I would strongly like to suggest that we talk about how to move Energy-Water, that we have a real conversation where we can examine this, be candid with one another."

Alexander, the ranking Republican on the Energy-Water spending panel, insisted that the committee should be allowed to debate a wide range of issues.

"I'm so troubled by the decision today to, I hope, temporarily not deal with the Energy-Water bill, which is such a terrific piece of legislation," he said Thursday.

"We could ask the parliamentarian if the amendment is germane," he said, adding that other amendments also may be offered. "My view is that if they're germane under the rules of the Senate, then we ought to vote on them."

Feinstein said, "I'm not one that's willing to shy away from a good fight. I was happy to have this fight, but as I saw it, and see it, there are a number of problems with the amendment. First, the amendment was clearly not germane or relevant or within the scope of the Energy-Water bill and although relevance and germaneness standards do not exist for our subcommittee bill, I cannot recall an amendment in the 21 years I've been here that is so much outside of the jurisdiction of this subcommittee. We do not handle EPA."



**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 061914 Clean Water Protection Rule Media Report - 21 items including Senate Approps table mark-up in CQ, , E&E, IBD editorial and Lehner op-ed in The Hill...  
**Date:** Thursday, June 19, 2014 10:34:32 AM  
**Attachments:** [removed.txt](#)  
[image002.png](#)

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FYI.

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**From:** Patricia Butler [<mailto:sagecommunications@earthlink.net>]  
**Sent:** Thursday, June 19, 2014 10:27 AM  
**To:** Waage, Melissa  
**Subject:** 061914 Clean Water Protection Rule Media Report - 21 items including Senate Approps table mark-up in CQ, , E&E, IBD editorial and Lehner op-ed in The Hill...

# Clean Water Protection Rule Media Report

## Prepared for NRDC by The Hastings Group

June 19, 2014

### **News Coverage**

**Democrats Avert Pollution Rule Showdown**, Congressional Quarterly, (see below), 06/19/14. The Senate Appropriations Committee last night called off a markup scheduled today of its fiscal 2015 Energy-«Water» spending bill, averting a battle over the Clean Water Act. No reason was given for the delay, and no new date was announced, but Republicans were set to force votes on environmental regulations that would be uncomfortable for some Democrats. Minority Leader [Mitch McConnell](#), R-Ky., planned to offer an amendment to block the Obama administration's plan to regulate carbon emissions from power plants, [reports CQ Roll Call's Niels Lesniewski](#).

**Amid escalating political tension, Senate panel drops energy, water bill from markup agenda**, E & E News, (see below), 06/19/14. The Senate Appropriations Committee last night suddenly abandoned plans to advance a \$34 billion energy and water spending bill this morning. Republicans had been plotting to use the markup to force tough votes on controversial issues including the Obama administration's climate change and clean water regulations.

**Fearing Senate Loss, Environmentalists Scramble To Preserve CWA Rule**, InsideEPA, 06/18/14. Environmentalists are scrambling to shore up congressional support for the administration's controversial proposed rule to clarify the scope of the Clean Water Act (CWA), fearing that vulnerable Democrats on the

Senate appropriations committee could give the GOP a majority to block further development of the pending regulation. With the GOP-controlled House almost certain to adopt legislation blocking development of the rule, which is being jointly developed by EPA and the Army Corps of Engineers, the Senate appropriations committee vote slated for June 19 on the Corps' budget will provide the first major test for the controversial regulation.

**Environmental groups concerned about looming water rule fight in Senate**, Baltimore Sun, 06/18/14.

Environmental advocates say a spending bill set for review in the Senate Appropriations Committee on Thursday could reopen a fight over whether the Environmental Protection Agency may regulate pollution entering small headwater streams that feed into larger bodies of water, including the Chesapeake Bay. The Obama administration proposed regulations in March that would allow the EPA to enforce Clean Water Act provisions on nearly two million miles of streams nationally that are tied to larger waterways -- a response to Supreme Court decisions in 2001 and 2006 that made that authority unclear.

**Wave of phony charges over new clear water safeguards**, The Hill, (op-ed), 06/17/14. Peter Lehner: After considerable scientific study, the EPA came to the unassailable conclusion that because small, intermittent streams and nearby wetlands feed into larger lakes and rivers that people use for drinking water, fishing and recreation, those waters should also be protected from pollution. And the EPA and the Corps produced some common-sense protections to cover those streams and wetlands. Peter Lehner is executive director of the Natural Resources Defense Council, an international environmental advocacy organization based in New York City.

**Walker: Community, not collectivism, saved millpond**, The (Detroit, MI) Morning Sun, 06/18/14. In Washington, however, unelected bureaucrats conjure plans on a seemingly daily basis that usurp local control and thereby threaten freedom. Take, for example, the Environmental Protection Agency and the U.S. Army Corps of Engineers. The EPA and Corps have proposed rules that would grant them Clean Water Act control over all the nation's waters. Not just some waters, mind you, but all. This means ponds, potholes, drainages, puddles, ditches and, oh, yes, the Blanchard millpond.

**Congressional riders could block Clean Water Act protections**, Bozeman Daily Chronicle, 06/18/14.

Federal agencies are still accepting public comment on a new rule that would renew Clean Water Act protections for headwater streams and wetlands, but a rider on a Congressional bill could block any changes to the rule. One rider would stop the Army Corps of Engineers and Environmental Protection Agency rule-making process on which waters would be regulated as "Waters of the United States."

**EPA officials attempt to ease farmers' fears on Waters of the United States rule**, Delta Farm Press, 06/18/14. "You do have friends at the EPA," EPA Regional Administrator Heather McTeer Toney told growers attending the June 16 farm tour. "We couldn't have come at a better time to see how critical this issue of water control is to the Mississippi Delta. The things that we've always done in the Delta for years, we will continue to be able to do. We highly respect those farming practices, and we understand how critical the ditches are to your farming practices."

**Proposed clean water act expansion could affect construction in Chatham County**, Savannah Morning News, 06/18/14. The Environmental Protection Agency and the U.S. Army Corps of Engineers recently proposed a new rule that would expand their jurisdiction under the Clean Water Act. The rule, if implemented, could add additional time and cost to new construction projects in Chatham County.

## **Opinion**

**Washington Wants to Regulate ... Everything**, Investor's Business Daily, (editorial), 06/18/14. How much more control does the EPA want over an ostensibly free America? Given that it's set its sights on rain-swelled ditches and soggy gullies, it seems there are no limits to its confiscatory ambition. Under the Clean Water Act, the U.S. Army Corps of Engineers and the Environmental Protection Agency have authority over the navigable waters of the U.S. But apparently that isn't enough for this administration. It wants more private land to fall under federal control.

## **Blogs/Social Media**



-  
**Speak up for water**, Lefteous Indignation, 06/18/14. The EPA is proposing to restore long-standing Clean Water Act protections that would defend millions of acres of wetlands and drinking water supplies. But a Senate committee may gut EPA's plan by adding an amendment to a bill that would effectively handcuff the agency and prevent them from doing their job. It's democracy at its worst and we won't stand for it.

-  
**Pressure Builds Against EPA Water Proposal**, The Westerner Blogspot, 06/19/14. Proposed changes to the federal Clean Water Act have roiled farmers across the nation and created an uproar among many other water users—including cities and counties with parks and recreation areas, golf courses and local water agencies. If adopted, the proposed rule changes would expand the definition of "waters of the United States" to potentially allow federal agencies to regulate virtually every area of ground in the nation that gets wet or has flow during rainfall.

-  
**Sportsmen Blast Attempts to Block Clean Water Rule**, Fly, Rod & Reel's Blog, 06/19/14. As Congress considers immediate action on clean water rule, hunters and anglers urge restoration of protections for nation's waters and wetlands WASHINGTON – During a call with reporters this afternoon, leaders of some of the nation's most prominent sportsmen's groups together urged the U.S. Senate not to derail a clean water rule that would restore longstanding Clean Water Act protections to some of the nation's most important waters and wetlands.

## **EPA White Board: Clean Water Act Rule Proposal Explained**

[https://www.youtube.com/watch?v=fOUESH\\_JmA0&feature=youtu.be](https://www.youtube.com/watch?v=fOUESH_JmA0&feature=youtu.be)

**EPWChairmanBoxer** @EPWChairBoxer 3h

Congress shouldn't muddy the waters on the EPA's **Clean Water Act** rule – editorial in today's [@latimes fw.to/oSbe7tN](#)

**MidCurrent** @MidCurrent 27m

TU's Chris Wood to Senate: "Don't Gut the **Clean Water Act**" | MidCurrent [midcurrent.com/2014/06/18/tus](#) ... via [@midcurrent](#) [@troutunlimited](#)



**WVTU** @WVTU 2h

Sportsman organizations and resource managers in WV need to stand up for hunting/fishing conservation and support [#CleanWaterAct](#).

[West Virginia, USA](#)

**Mark Taylor** @tayloroutdoors 3h

Sixteen Sporting Groups Ask Senate to Defend **Clean Water Act** | Trout Unlimited - Conserving coldwater fisheries: [tu.org/blog-posts/six](#) ...



**StormwaterONE** @StormwaterONE 6h

Do you believe all rivers, streams and wetlands should be protected? Check out the EPA's **Clean Water Act** Rule... [fb.me/31OyXHZTt](#)



**Ben Geman** @Ben\_Geman 11h

1/2 The white-hot politics of the EPA climate and **Clean Water Act** rules are singeing the appropriations process in the Senate. [#EPA](#)

**TheDailyTimes** @TheDailyTimes 12h

San Juan County opposes **Clean Water Act** expansion. [bit.ly/1phfwT9](http://bit.ly/1phfwT9)

## Democrats Avert Pollution Rule Showdown

By Philip Brasher, CQ Roll Call

### In today's Morning Take:

Energy-Water» Markup Postponed

The Senate Appropriations Committee last night called off a markup scheduled today of its fiscal 2015 Energy-«Water» spending bill, averting a battle over the «Clean» «Water» «Act». No reason was given for the delay, and no new date was announced, but Republicans were set to force votes on environmental regulations that would be uncomfortable for some Democrats. Minority Leader [Mitch McConnell](#), R-Ky., planned to offer an amendment to block the Obama administration's plan to regulate carbon emissions from power plants, [reports CQ Roll Call's Niels Lesniewski](#).

Republicans [John Hoeven](#) of North Dakota and [Mike Johanns](#) of Nebraska had an amendment aimed at stopping the Obama administration from moving forward with a proposed rule clarifying the jurisdiction of the «water» pollution law ( [PL 95-217](#) ). The Democrats' move means the bill could wind up being wrapped into a catchall spending package later.

Conservation groups, trying to counter the pressure that farm groups are putting on vulnerable Democrats, argued that the «water» rule is critical to protecting trout streams and waterfowl habitat. "People just need to read the rule. ... If anything it provides a lot more clarity for farmers," Adam Kolton of the National Wildlife Federation told reporters Wednesday. The House version of the spending bill contains a provision to block the rule.

Democratic appropriator [Mark Pryor](#), who is up for re-election in Arkansas, has been among the top targets for opponents of the rule, which attempts to define what areas are covered by the law.

### Amid escalating political tension, Senate panel drops energy, water bill from markup agenda

Nick Juliano, E&E reporter

Published: Thursday, June 19, 2014

The Senate Appropriations Committee last night suddenly abandoned plans to advance a \$34 billion energy and water spending bill this morning. Republicans had been plotting to use the markup to force tough votes on controversial issues including the Obama administration's climate change and clean water regulations.

The cancelation was announced around 8 p.m. last night, and an Appropriations Committee aide offered no explanation for the deviation. Rumors had been circulating during the day yesterday that the hearing would be canceled, but committee aides from both sides of the aisle were saying the markup would proceed a couple of hours before the energy bill was removed from the agenda.

It remains to be seen when or whether the markup will be rescheduled. The committee still plans to mark up

two other spending bills that had been on the agenda for this morning' session.

Whenever the bill is marked up -- if it is -- Republicans are sure to pounce on the opportunity to score political points. Three moderate Democrats facing tough re-election races -- Sens. Mark Begich of Alaska, Mary Landrieu of Louisiana and Mark Pryor of Arkansas -- are members of the Appropriations Committee.

A spokesman for Senate Minority Leader Mitch McConnell (R-Ky.), who is on the committee and also in a tough re-election race, was quick to accuse Democrats for canceling the session in order to avoid weighing in on the president's climate agenda.

"You'd think the Democrats who praised the President's job-killing EPA regulations would want to stand up and defend them," spokesman Don Stewart said in an email last night. "Apparently not."

The Senate bill would have distributed about \$34 billion among the Department of Energy, Army Corps of Engineers and other agencies. The full text of the bill has not yet been released, as the Senate committee typically does not release the text of its bills until they are marked up.

A House [companion](#) that emerged from committee yesterday included provisions blocking the corps from completing a rule that would expand the reach of the Clean Water Act and admonishing the administration for quietly revising how it calculates the costs and benefits of climate change regulations ([Greenwire](#), June 18).

McConnell was planning to offer an amendment that has been described as broadly targeting the Obama administration's climate agenda, although its precise wording was closely guarded. The minority leader earlier this month introduced the "Coal Country Protection Act" ([S. 2414](#)), which would block U.S. EPA regulations on new or existing power plants until the Department of Labor, Congressional Budget Office, Energy Information Administration and Federal Energy Regulatory Commissions certified the regulations would have no effect on jobs, the economy, electricity rates or grid reliability.

EPA is funded under the separate Interior and environment spending bill; any effort to target it directly would have to come on that bill because amendments to appropriations bills must be germane to the subject matter under Senate Rule XVI.

It was unclear exactly what the amendment McConnell planned to offer would do. A spokesman said via email, "the language is modified in a way that's germane to energy & water" but did not provide any more detail.

One possibility is McConnell's amendment would seek to force a recalculation of the social cost of carbon, a key variable used in cost-benefit analyses. The Obama administration quietly increased its value last year as part of a low-profile DOE regulation, so going after the SCC could be germane to the energy and water bill. Language added yesterday to the report accompanying the House appropriations bill said the committee "believes" the administration should not use its recalculated SCC value until the Government Accountability Office completes an ongoing review and the new value is subject to a public comment period.

Sen. John Hoeven (R-N.D.) planned to offer an amendment that would have prevented the Army Corps from completing work on the Clean Water Act rule, GOP aides said. The corps and EPA have spent years on a controversial effort to expand the scope of the water law, which has been a source of massive confusion for environmentalists and regulated industries for well over a decade.

Administration supporters say the rulemaking would clarify which rivers and streams fall under federal jurisdiction and would protect rivers and streams that currently can be polluted without consequence. Industry groups say the rule would be so broad as to make virtually any ditch -- even some without running water -- subject to the law as part of the administration's overzealous approach to regulation.

The prospect of anti-EPA amendments emerging in the Democratic-controlled Senate had environmentalists scrambling. Theodore Roosevelt Conservation Partnership CEO Whit Fosburgh said there was a concern that moderate Democrats in tight races would feel compelled to support such riders.

Groups are noting support for the administration's CWA proposal beyond environmentalists. Pressure from sportsmen and fishermen, they feel, may sway undecided lawmakers.

Trout Unlimited CEO Chris Wood said in a conference call that the Clean Water Act rule was a "gut check issue

for fishermen in general." National Wildlife Federation advocate Adam Kolton said a rider against it would be "against the interests of American sportsmen."

Another issue that was expected to be addressed at the markup was a proposal included in the appropriations bill from the Obama administration's budget request calling on the nuclear energy industry to pay fees into DOE's Uranium Enrichment Decontamination and Decommissioning Fund. The fund pays to clean up three federal facilities that supplied highly enriched uranium for nuclear warheads during the Cold War before being privatized to provide fuel for nuclear power plants.

The nuclear industry says it already has fulfilled its obligation to the fund and should not be subject to further charges ([Greenwire](#), Feb. 15, 2012).

"Not only is there no justification for further taxing nuclear utility ratepayers, there is no need for additional revenues at this time. The uranium decontamination and decommissioning trust fund has a balance of \$4 billion; funds are available," wrote Alex Flint, the Nuclear Energy Institute's senior vice president for federal affairs, in a [letter](#) to Sens. Dianne Feinstein (D-Calif.) and Lamar Alexander (R-Tenn.), the chairwoman and ranking member of the Appropriations energy and water subpanel.

A Republican aide said a senator was expected to offer an amendment today to block imposition of the fees -- which were not included in the House bill -- but it was unclear who the sponsor was.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 061814 Clean Water Protection Rule Media Report - 17 items including LAT editorial and CQ on Senate GOP water rule threat...  
**Date:** Wednesday, June 18, 2014 10:39:30 AM

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FYI.

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# Clean Water Protection Rule Media Report

## Prepared for NRDC by The Hastings Group

June 18, 2014

### News Coverage

**Senate Republicans Target Water Rule**, Congressional Quarterly, (see below), 06/17/14. Senate Republicans are preparing to use the fiscal 2015 Energy-Water appropriations bill to block the Obama administration from finalizing its rule defining the jurisdiction of the Clean Water Act ( [PL 95-217](#) ). Sen. John Hoeven, R-N.D., said Tuesday he's planning to offer an amendment when the full Appropriations Committee marks up the legislation on Thursday.

**Farmers Fired Up Over Proposed EPA rule**, WCHS-TV/Charleston, WV, 06/17/15. Area farmers are fired up over some proposed new EPA rules that could greatly affect the way they operate on their own land. Even though there was no water in a ditch pictured in Butler's presentation, if a farmer were to spread manure or chemicals on the land around it after a storm, water could flow through it, so a farmer would have to get a permit.

**Commissioners disapprove of Clean Water Act expansion**, San Angelo (TX) Standard-Times, 06/17/14. The Environmental Protection Agency and Army Corps of Engineers proposed a rule placing ditches, ponds, flood plains and other areas connected to downstream navigable waters, under federal control. The commissioners adopted a resolution in opposition of the rule Tuesday, which remains in the public comment phase until Oct. 20, and will send it to the Texas Legislature.

**Pressure builds against EPA water proposal**, (CA) Ag Alert, 06/18/14. California Farm Bureau Federation leaders were in Washington, D.C., in mid-May to explain to lawmakers face to face the damage the proposed changes could have on food production. They called for more time to review and comment on the proposal.

**Proposed changes to 'waters of the U.S.'**, Brownfield Ag News, 06/17/14. The amount of frustration over the EPA's proposed changes to the Clean Water Act and their jurisdiction over 'waters of the U.S.' is growing, not only in the agricultural community, but in Congress as well. During a hearing on the proposed changes, Congressman Bob Gibbs of Ohio, chair of the House Subcommittee on Water Resources and the Environment said his subcommittee heard from not only regulators, but also from those that would be impacted by the rule.

**What the EPA's proposed water rule means for you**, Aggregates Manager, 06/17/14. Emily Coyner, director of Environmental Services for the National Stone, Sand and Gravel Association (NSSGA), says the EPA's proposed rule would expand the scope of federal waters. She notes that areas such as ditches and flood plains are included in the new definition.

**Clean Water Rule Comment Period Extended**, Murray County (MN) News, 06/18/14. "The Minnesota Bureau Federation is pleased that the Environmental Protection Agency (EPA) has extended the time available to comment on new and highly burdensome clean water rules until October 20," said Minnesota Farm Bureau Federation (MFBF) President Kevin Paap. "This is critically important for farm and ranch families as they have been busy in the field and will allow them to engage in the comment process and explain how they are greatly impacted by the proposed rule."

## **Opinion**

**Congress shouldn't muddy the waters on the EPA's Clean Water Act rule**, Los Angeles Times, (editorial), 06/18/14. The proposed rule is especially important in California and elsewhere in the West, where more than half of the rivers and streams are seasonal — swelling with rain in winter and carrying their water to marshes, lakes or the sea, but going dry in the summer. Such streams are the places in which salmon and steelhead spawn, and are often the sources of clean water used for drinking and agriculture. The agency is seeking to make it clear that these waterways are covered by the Clean Water Act and may not be polluted, dug up or filled in.

**Ditch the new federal water rules**, Pittsburgh (PA) Tribune-Review, (op-ed), 06/17/14. Carl T. Shaffer: Farmers across Pennsylvania and the nation are opposing new rules proposed by the Environmental Protection Agency and the U.S. Army Corps of Engineers. Although the rules are characterized as regulating water, they would expand the federal regulation of virtually every acre of land under what the government agencies call "waters of the United States." Carl T. Shaffer, a Columbia County farmer, is president of the Pennsylvania Farm Bureau.

**EPA, Corps Extends 'Waters of the U.S.' Comment Period**, Associated Equipment Distributors/news release, 06/17/14. A broad swath of industry stakeholders representing agriculture, construction, housing, manufacturing, and energy sectors are concerned the proposal would allow more federal intervention in local land use decisions, increase the regulatory burden on businesses, raise the cost of development without a proven benefit to the environment, and give EPA unprecedented jurisdiction over private property.

## **Blogs/Social Media**

**Protect Oregon's rivers by protecting the Clean Water Act.**

[https://www.youtube.com/watch?v=E3-yR\\_-gWmk](https://www.youtube.com/watch?v=E3-yR_-gWmk)



**Leslie Marshall** @LeslieMarshall 10h

Some of [#Congress](#) is trying to withhold funds from [#CleanWaterAct](#). [#CleanWater](#) supports the economy. Shouldn't we be demanding clean water?



**American Farm Bureau** @FarmBureau 15h

ID farmer: "nightmare to try & keep-up w/permits we could possibly need...unacceptable." [bit.ly/1nIXTli](http://bit.ly/1nIXTli) [#ditchtherule](#)

**The TRCP** @TheTRCP 23m

RT [@AmFisheriesSoc](#): AFS joins groups in letters to House & Senate opposing rider that would bar **Clean Water Act** rulemaking:...



**Trout Unlimited** @TroutUnlimited 30m

Sportsmen groups' CEOs ask [@SenateApprops](#) committee to protect [#CleanWaterAct](#) [bit.ly/1vHeG5U](http://bit.ly/1vHeG5U) [@EPAwater](#) [#Fishing](#) [#flyfishing](#) [#trout](#)



**AFFTA** @AFFTA 2h

The clock is ticking for the **Clean Water Act**. Have YOU done your part to protect our fisheries? Check out the... [fb.me/2OvzmGy8L](http://fb.me/2OvzmGy8L)



**iowacci** @iowacci 4h

"It's IA nice, not IA naive", said Bill Stowe of [@DSMH2O](#) on the [#cleanwaterfight](#). The DNR & EPC must strengthen the **Clean Water Act** rule.

CQ NEWS  
June 17, 2014 – 4:00 p.m.

## Senate Republicans Target Water Rule

By Philip Brasher, CQ Roll Call

Senate Republicans are preparing to use the fiscal 2015 Energy-Water appropriations bill to block the Obama administration from finalizing its rule defining the jurisdiction of the Clean Water Act ( [PL 95-217](#) ). Sen. [John Hoeven](#) , R-N.D., said Tuesday he's planning to offer an amendment when the full Appropriations Committee marks up the legislation on Thursday.

"I certainly hope they'll vote for it," Hoeven said of the committee. Asked if Democratic leaders would



allow such an amendment out of the Senate, Hoeven added, "Anything I can attach it to that makes it through, I'm going to do it."

The Energy and Water Appropriations subcommittee approved the draft legislation earlier Tuesday with the understanding that amendments would be deferred to full committee.

Sen. [Charles E. Grassley](#), R-Iowa, sees a chance of the amendment being adopted, given that the rule hasn't been finalized. He said the rule could be an issue in the race for Iowa's other Senate seat this fall because it fits into larger concerns about the administration's regulatory agenda.

Democrat [Tom Harkin](#) is retiring from the seat.

The House version of the Energy and Water bill, which the House Appropriations Committee is scheduled to mark up Wednesday, contains a provision prohibiting the administration from working on the rule.

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FW: 061714 Clean Water Protection Rule Media Report - 13 items including governors protest in E&E, Approps vote per Inside EPA and NaCo testimony...  
**Date:** Tuesday, June 17, 2014 1:09:03 PM  
**Attachments:** [image002.png](#)

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Good afternoon—

NRDC has arranged for the Hastings Group to track media coverage of the Clean Water Protection Rule. Today's installment is below. I hope you find it useful. I would be glad to forward these whenever we receive them, but please let me know if you would not like to receive these updates.

Best,  
Jon

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# Clean Water Protection Rule Media Report

## Prepared for NRDC by The Hastings Group

June 17, 2014

### News Coverage

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**9 governors ask Obama to nix carbon, water rules**, E&E News (see below), 06/16/14. The governors also took aim at EPA's April proposal that would bring more bodies of water under Clean Water Act regulation. By "redefining" what waters can be regulated, they wrote, EPA and the Army Corps of Engineers are guilty of another sweeping act of overreach. "If successful, the federal government would become the arbiters of how our citizens, state highway departments, county flood control and storm water agencies, utilities, irrigation districts and farmers use their water and their land," the governors wrote.

**Clean Water Act Jurisdiction: Congress Acts**, Inside EPA, (see below), 06/16/14. The Obama administration's controversial plan to clarify the reach of the CWA will face its first congressional vote [June 17](#) when the House Appropriations Committee is slated to meet to mark up the fiscal year 2015 Energy and Water Appropriations bill, which includes a provision to bar EPA and the Army Corps of Engineers from finalizing their controversial CWA measure.

**NaCo Testifies Before House Committee on “Waters of the U.S.” Proposed Rule**, Beaufort County (NC) Now, 06/16/14. On June 11, Warren "Dusty" Williams, General Manager/Chief Engineer, Riverside County, California, Flood Control and Water Conservation District testified on behalf of the National Association of Counties (NACo) and the National Association of Flood and Stormwater Management Agencies (NAFSMA), before the House Transportation and Infrastructure Committee's Subcommittee on Water Resources and the Environment at a hearing, "Potential Impacts of Proposed Changes to the Clean Water Act Jurisdictional Rule." Williams' [testimony](#) focused on the role counties and public agencies play in Clean Water Act (CWA) regulations and outlined several challenges that the new proposed rule would present for counties and public agencies.

**EPA is overreaching its authority**, Pope County (MN) Tribune (editorial), 06/16/14. The EPA would have us believe that farmers are exempt, however the actual document has very narrow exemption parameters and ambiguous language that is subject to change and interpretation. MOST farms would NOT be exempt from this rule. While the EPA suggests that only 1,300 additional acres would be regulated, the American Farm Bureau Federation estimates that over 100 million acres would fall within the new definition.

**Who needs clean water?** nyrealestatelawblog, 06/16/14. Rob McCullough: The Army Corps and EPA are working to restore protections under the Clean Water Act to safeguard our nation's water resources—including streams and wetlands that supply drinking water to approximately 117 million Americans. But, they can't take those steps if Congress puts obstacle after obstacle in their way. Rob McCullough is Director of Infrastructure Programs with BlueGreen Alliance.

**EPA proposes change to Clean Water Act**, gohunt.com, 06/16/16. “This rule represents the best chance in a generation to restore protections to waters upon which hunters and anglers rely while preserving all exemptions for agricultural activities – and, in some cases, enhancing them,” said the Theodore Roosevelt Conservation Partnership (TRCP), in a statement it presented to Congress.

## **Opinion**

**Regulations can be good for business: Look at clean water**, The Hill/Congress Blog, 06/16/14. Eric Henry: But there is an economic upside to regulations like these. According to one estimate from the National Resources Defense Council (NRDC), these rules could offer anywhere between \$388 million and \$514 million in economic benefits, compared to only \$162 million to \$278 million in costs. Even in the worst-case scenario, that kind of return is something a business owner would jump at. That's why I told Congress that businesses need this kind of action from the government. I may have been the only business owner in the room telling them that today, but I'm not the only one who wants it. Henry is president of T S Designs, in Burlington, N.C., and a member of the American Sustainable Business Council. He testified before the U.S. House Subcommittee on Water Resources and Environment on, June 11.

## **Blogs/Social Media**



**American Rivers** [@americanrivers](#) 2m

[@EPA](#) & [@USACEHQ](#) rule is not an "overreach" of federal govt, but restoration of how **Clean Water Act** was implemented [ow.ly/y5hbH](#)

**Buchanan Ingersoll** [@buchanannews](#) 4h

EPA and Army Corps Propose Expansive Regulation Identifying Jurisdictional Waters under the **Clean Water Act** [ift.tt/1qVP031](#)



**Western Caucus** @westerncaucus 4h

@SmallBizGOP The proposed rule to expand the **Clean Water Act** by the @EPA should be withdrawn #DitchtheRule [bit.ly/1i4tcCv](http://bit.ly/1i4tcCv)



**Protect The Harvest** @ProtectHarvest 14h

There's still time to tell the EPA we don't want their proposed expansion to the **Clean Water Act**! #DitchTheRule [pic.twitter.com/Pgr3bfF972](http://pic.twitter.com/Pgr3bfF972)



**mark pierson** @mperson1969 14h

@ProtectHarvest Why wouldn't we want the EPA to regulate our water? We need to protect it. It's a limited resource and doesn't grow on trees

**PressReleasePoint** @prpnews 3h

[tinyurl.com/p9em4mz](http://tinyurl.com/p9em4mz) Proposed **Clean Water Act** Rule is More Federal Overreach, Builders Tell Congress

## 9 governors ask Obama to nix carbon, water rules

Jean Chemnick, E&E reporter

Published: Monday, June 16, 2014

Nine Republican governors asked President Obama today to scrap U.S. EPA's climate rule proposal for existing power plants, blasting it as an unprecedented infringement on state authority.

The governors, whose states are major producers and consumers of fossil fuels, told Obama in a **letter** the June 2 proposal from U.S. EPA would "largely dictate to states the type of electricity generation they could build and operate."

"In addition, you seek to essentially ban coal from the U.S. energy mix," they said.

The letter was signed by the governors of Alaska, Indiana, Louisiana, Mississippi, North Carolina, North Dakota, Pennsylvania, Texas and Wyoming.

While they say their state environmental regulators are still working to understand the proposal, they say the "best available data" show it will cost millions of jobs and billions of dollars. The figure tracks with a U.S. Chamber of Commerce economic report prepared ahead of the rule's release that assessed the possible costs of regulations. The chamber's assumptions have been widely disputed.

EPA has said the proposal would make up to 19 percent of today's coal fleet uneconomical but insists it respects states' Clean Air Act authority to determine how the rule would be implemented and provides them with great flexibility.

The governors also took aim at EPA's April proposal that would bring more bodies of water under Clean Water Act regulation. By "redefining" what waters can be regulated, they wrote, EPA and the Army Corps of Engineers are guilty of another sweeping act of overreach.

"If successful, the federal government would become the arbiters of how our citizens, state highway departments, county flood control and storm water agencies, utilities, irrigation districts and farmers use their water and their land," the governors wrote.

This is not the first time states have banded together in an attempt to head off EPA greenhouse gas rules they suspected would be particularly burdensome to them. North Dakota hosted an April meeting of 18 like-minded states in Bismarck, in which states heard from high-level EPA officials about the upcoming proposal and strategized about ways to safeguard their interests ([Greenwire](#), April 17).

The letter also comes as members of Congress continue to introduce bills aimed at curbing the greenhouse gas rules.

Rep. Steve Daines (R-Mont.), who is challenging Sen. Jon Tester (D) this year, introduced legislation late last week aimed at making the EPA carbon regulations contingent on the Labor Department and others certifying that the rules would not have an economic cost.

## Clean Water Act Jurisdiction: Congress Acts (Inside EPA)

The Obama administration's controversial plan to clarify the reach of the CWA will face its first congressional vote [June 17](#) when the House Appropriations Committee is slated to meet to mark up the fiscal year 2015 Energy and Water Appropriations bill, which includes a provision to bar EPA and the Army Corps of Engineers from finalizing their controversial CWA measure.

[The draft bill](#), released June 6, received no substantive amendments in a June 10 committee markup. As proposed, it would bar the Corps from using any appropriated funds to "develop, adopt, implement, administer, or enforce" a CWA jurisdiction rule – language which the GOP-controlled House has included in spending bills for years, but which has consistently been removed from consensus bills before passage.

Appropriators may also debate whether to add funding provisions for the [just-passed](#) Water Infrastructure Finance and Innovation Authority (WIFIA), an infrastructure financing mechanism for large projects that is expected to be funded through the EPA and Corps appropriations bills – but would receive no funding in FY15 under the current draft.

Supporters of the program, including drinking water groups, are vowing to use the appropriations process to strip or amend the prohibition on using WIFIA to fund more than half of a single construction project.

Then, on June 19, the House Agriculture Committee's panel on conservation, energy and forestry will hold [a hearing on EPA and the Corps' interpretive rule](#) exempting more than 50 agricultural practices, such as brush management and herbaceous weed control, from CWA dredge-and-fill permit mandates by specifying that they are "normal farming" measures that by rule do not require permits.

The rule [is drawing concerns](#) from farm groups that fear it may expand the Agriculture Department's (USDA) enforcement role, and state officials who fear it could create uncertainty about remaining regulatory requirements. While the agencies have said they do not plan to revise the CWA interpretive rule, they are taking comment on the measure. According to a notice slated for publication in the *Federal Register* June 17, EPA and the Corps have extended to July 7 the deadline for public comments on potential changes to the exemptions.

Finally, EPA's Science Advisory Board (SAB) [will hold a June 19 teleconference](#) to continue its review of EPA's draft study on waters' connectivity, which is expected to provide the scientific support for the CWA jurisdiction rule.

In particular, the discussion will address SAB's [June 5 draft report](#) which rejected EPA's finding that it lacks adequate scientific data for making blanket jurisdictional determinations that waters and wetlands, such as prairie potholes or playa lakes, located in non-floodplain areas are connected to navigable waters and are therefore jurisdictional.

Instead, the advisers suggested new language for the report that would ease regulators' ability to assert jurisdiction over smaller waters located outside of floodplains, while also urging EPA to strengthen its focus on groundwater and biological connections.

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** Can we chat?  
**Date:** Friday, June 13, 2014 2:51:49 PM

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I am very sorry to bug you on a day you are out of the office, and understand if you can't speak. If, however, you have a chance to talk briefly, I would like to catch up with you. Thanks.

Jon

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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(202) 289-1060 (fax)

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## Document 98

**From:** [Devine, Jon](#)  
**To:** [Kopocis, Ken](#)  
**Subject:** Can we talk briefly today?  
**Date:** Thursday, June 12, 2014 4:30:55 PM

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I can call you any time after 5:30. If that works, please let me know the best number to use. Thx.

Sent from my iPhone



**From:** [Devine, Jon](#)  
**To:** [Evans, David](#); [Stoner, Nancy](#); [Kopocis, Ken](#); [Downing, Donna](#)  
**Subject:** FW: WestlawNext - U.S. v. Cumberland Farms of Connecticut, Inc.  
**Date:** Wednesday, June 11, 2014 1:25:14 PM  
**Attachments:** [US v Cumberland Farms of Connecticut Inc.rtf](#)

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In the House Transportation and Infrastructure hearing just now, Mr. Stallman from the Farm Bureau claimed that the attached case stands for the proposition that EPA believes that the "normal farming" exemption does not apply to operations that haven't been consistently farmed since 1977. I don't see that in the case on a quick read, but I wanted to bring this to your attention.

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
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-----Original Message-----

From: WestlawNext@westlawnext.com [<mailto:WestlawNext@westlawnext.com>]  
Sent: Wednesday, June 11, 2014 1:19 PM  
To: Devine, Jon  
Subject: WestlawNext - U.S. v. Cumberland Farms of Connecticut, Inc.

Jon Devine sent you content from WestlawNext.  
Please see the attached file.

Item: U.S. v. Cumberland Farms of Connecticut, Inc.  
Citation: 647 F.Supp. 1166  
Sent On: June 11, 2014  
Sent By: Jon Devine  
Client ID: 260488

Note:

## Document 100

**From:** [Devine, Jon](#)  
**To:** [Devine, Jon](#)  
**Subject:** FYI -- blog post on agriculture myths & facts  
**Date:** Tuesday, May 06, 2014 1:58:03 PM

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[http://switchboard.nrdc.org/blogs/jdevine/phony\\_objections\\_to\\_clean\\_wate.html](http://switchboard.nrdc.org/blogs/jdevine/phony_objections_to_clean_wate.html)

Jon Devine

Senior Attorney, Water Program

Natural Resources Defense Council

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**From:** [Devine, Jon](#)  
**To:** [Stoner, Nancy](#); [Downing, Donna](#); [Peck, Gregory](#); [Kopocis, Ken](#)  
**Subject:** Farm Bureau website attacking proposal  
**Date:** Friday, May 02, 2014 11:19:29 AM

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FYI, the Farm Bureau now has its own "Ditch the Rule" website (<http://ditchtherule.fb.org/>); one item focuses on its purported objections to the various exemptions for ag: [http://ditchtherule.fb.org/custom\\_page/epa-says-it-will-exempt-farmers-from-the-rule-so-why-are-they-concerned/](http://ditchtherule.fb.org/custom_page/epa-says-it-will-exempt-farmers-from-the-rule-so-why-are-they-concerned/).

One allegation caught my eye (because it was also stated during the Altoona field hearing the other day): "a farmer has to have been farming continuously since 1977 to benefit from the exemptions." Am I right that I can say without fear of contradiction that this claim is false? I can find nothing in EPA/Corps rules or guidance that says that a farming operation has to have been ongoing since 1977 to be considered an "established farming" operation.

Feel free to call if this is unclear. Thanks.

Thanks.

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

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**From:** [Slesinger, Scott](#)  
**To:** [Ganesan, Arvin](#); [kopocis.kenneth@epa.gov](mailto:kopocis.kenneth@epa.gov); [Rohan Patel \(rohan\\_patel@ceq.eop.gov\)](mailto:Rohan_Patel(rohan_patel@ceq.eop.gov))  
**Subject:** Community Letter against gutting Clean Water Act in the Farm Bill  
**Date:** Wednesday, January 22, 2014 11:46:15 AM  
**Attachments:** [Farm Bill - Clean Water Community Letter.pdf](#)

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Urge the Administration to weigh in with us.

[Scott](#)

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**From:** Feeney, Evan  
**Sent:** Tuesday, January 21, 2014 1:36 PM  
**To:** Slesinger, Scott  
**Subject:** RE: can you send me the letter in pdf so i can link to it in a blog

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**From:** Slesinger, Scott  
**Sent:** Tuesday, January 21, 2014 1:33 PM  
**To:** Feeney, Evan  
**Subject:** can you send me the letter in pdf so i can link to it in a blog

Scott Slesinger (from home computer)  
(o) 202-289-2402 (c) 202-870-1066 (h)202-290-2710